BIENNIAL REPORT

OF THE

ATTORNEY GENERAL

TO THE

GOVERNOR OF THE STATE OF ALABAMA

FOR THE PERIOD

FROM OCTOBER 1, 1910
TO SEPTEMBER 30, 1912

ROBERT C. BRICKELL, *Attorney General*
W. L. MARTIN, *Assistant Attorney General*
T. H. SEAY, *Assistant Attorney General*
LORENA B. BUSH, *Stenographer*

Montgomery, Ala.
BROWN PRINTING COMPANY,
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1912.

ATTORNEYS GENERAL OF ALABAMA.

1819 to 1912.

Henry Hitchcock	1819
Thomas White	1823
Constantine Perkins	1825
Peter Martin	1832
Alexander B. Meek	1836
John D. Phelan	1836
Lincoln Clarke	1838
Matthew W. Lindsay	1839
Thomas D. Clarke	1843
William H. Martin	1847
Marion A. Baldwin	1840
John W. A. Sanford	1865
Joshua Morse	1868
John W. A. Sanford	1870
Benjamin Gardner	1872
John W. A. Sanford	1874
Henry C. Tompkins	1878
Thomas N. McClellan	1884
William L. Martin	1889
William C. Fitts	1894
Charles G. Brown	1898
Massey Wilson	1903
Alexander M. Garber	1907
Robert C. Brickell	1911

Note: For many years, the law required the Attorney General to act as Solicitor for the Circuit in which the seat of government was located.

LIST OF CIRCUIT, CITY AND COUNTY SOLICITORS.

First Circuit____Hon. John McDuffie, Monroeville, Ala.
Second Circuit_____Hon. C. R. Bricken, Luverne, Ala.
Third Circuit_____Hon. Henry B. Steagall, Ozark, Ala.
Fourth Circuit__Hon. J. F. Thompson, Centreville, Ala.
Fifth Circuit_____Hon. W. B. Bowling, Dadeville, Ala.
Sixth Circuit____Hon. M. T. Ormond, Tuscaloosa, Ala.
Seventh Circuit__Hon. Chas. S. Cornelius, Ashland, Ala.
Eighth Circuit_____Hon. D. C. Almon, Decatur, Ala.
Ninth Circuit_____Hon. C. C. Appleton, Centre, Ala.
Tenth Circuit_____Hon. Joe Tate, Birmingham, Ala.
Eleventh Circuit_Hon. R. T. Simpson, Jr., Florence, Ala.
Twelfth Circuit_____Hon. Richard H. Parks, Troy, Ala.
*Thirteenth Circuit_____
Fourteenth Circuit_Hon. W. B. Bankhead, Jasper, Ala.
Fifteenth Circuit_____Hon. F. L. Tate, Wetumpka, Ala.
Sixteenth Circuit_____Hon. J. A. Emery, Ashville, Ala.

City Court of Andalusia, Hon. L. H. Brassell, Andalusia, Ala.

City Court of Anniston, Hon. W. C. Tunstall, Jr., Anniston, Ala.

City Court of Bessemer, Hon. Ben F. Perry, Bessemer, Ala.

City Court of Gadsden, Hon. L. B. Rainey, Gadsden, Ala.

City Court of Mobile, Hon. Norborne R. Clarke, Mobile, Ala.

City Court of Montgomery, Hon. W. T. Seibels, Montgomery, Ala.

City Court of Selma, Hon. J. F. Thompson, ex officio, Centreville, Ala. Hon. R. H. Mangum, Deputy Solicitor, Selma, Ala.

City Court of Talladega, Hon. Marion H. Sims, Talladega, Ala.

County Court of Clarke, Hon. F. E. Poole, Thomasville, Ala.

County Court of Clay, Hon. Robert A. Gay, Ashland, Ala.

Criminal Court of Jefferson County, Hon. H. P. Heflin, Birmingham, Ala.

County Court of Marion, Hon. R. W. Quinn, Hamilton, Ala.

County Court of Pike, Hon. A. G. Seay, Troy, Ala.

County Court of Sumter, Hon. Jas. A. Mitchell, Livingston, Ala.

County Court of Tuscaloosa, Hon. C. B. Verner, Tuscaloosa, Ala.

Lee County Law and Equity Court, Hon. C. A. L. Samford, Opelika, Ala.

Madison County Law and Equity Court, Hon. Zac I. Drake, Huntsville, Ala.

Morgan County Law and Equity Court, Hon. Samuel Blackwell, New Decatur, Ala.

Walker County Law and Equity Court, Hon. J. D. Acuff, Jasper, Ala.

Hale County Law and Equity Court, Hon. Thomas E. Knight, Greensboro, Ala.

Marengo County Law and Equity Court, Hon. B. G. Wilson, Demopolis, Ala.

Monroe County Law and Equity Court, Hon. M. R. Sowell, Monroeville, Ala.

Shelby County Court, Hon. J. J. Haynes, Columbiana, Ala.

Solicitor for Jackson County, Hon. John F. Proctor, Scottsboro, Ala.

ATTORNEY GENERAL'S REPORT

LETTER OF TRANSMITTAL.

STATE OF ALABAMA
OFFICE OF
THE ATTORNEY GENERAL

MONTGOMERY, ALA., Oct. 3, 1912.

HON. EMMET O'NEAL,
Governor of Alabama.

Dear Sir:—

As required by the provisions of section 635 of the Code of Alabama, I herewith transmit the biennial report of the Attorney General of Alabama for the period beginning October 1, 1910, and terminating September 30, 1912.

This is the first report from this office during my incumbency, which covers this entire period with the exception of the time intervening between October 1, 1910, and January 16, 1911, during which period my predecessor remained in office.

During the period covered by this report, and especially the period since the passage by the Legislature of the act amending sections 546-547 of the Code so as to increase the number of examiners of public accounts to seven, and extending their jurisdiction over county as well as State affairs, the work of this office has been

greatly increased, and the demands from these examiners for opinions upon matters with which the Attorney General did not heretofore have any connection, have been greater than that of all other departments of the State government. This, however, is not unnatural, but is the necessary result of the act above referred to.

The Legislature, at its last session, provided for a second assistant in this office, which has greatly expedited the proper conduct of the business of the office, and without the service of both assistants, the efficiency of this office would be very seriously crippled; in fact, the growth and development of the State is such that the demands upon this office constantly increase, and will soon be such that not only will they require the entire time of the Attorney General, as they now do, but also that of both assistants. The time has long since passed in this State when the Attorney General can engage in private practice, as was formerly the custom.

Appended to this report you will find:

First—Such of the official opinions which have been rendered by this office during my incumbency as deal with questions of public interest, or will be of aid to the various officials of the State.

Second—A statement of the present status of all civil suits and claims, in which the State is interested, which have demanded the attention of this office.

Third—A tabulated statement showing the number and character of criminal cases disposed of in the entire State for the period of two years covered by this report, together with the disposition of such cases. This statement will be made in this report for the first time by counties as well as by circuits, and will also show the prevalent crime in each county.

By sub-division 5 of section 635 of the Code, the Attorney General is required, "In the month of October in each even numbered year, to make a report to the Governor of the business of his office for the two years next preceding, with such suggestions tending to the suppression of crime, and the improvement of criminal administration as he may deem proper."

In his last report, my predecessor in office, Hon. Alex M. Garber, made several recommendations, in the principles of which I heartily concur, but as my suggestions and recommendations will differ somewhat in detail, I will deal with these suggestions in the manner which seems now best suited to the needs of the State.

A statute should be enacted providing that whenever a defendant indicted for any degree of homicide is convicted of a lesser degree, and the judgment of conviction is reversed, upon his appeal, or if a new trial be granted by the trial court upon the motion of the defendant, that in that event the defendant should be placed upon trial for the crime charged in the indictment as if there had been no previous trial. Under the present system, a defendant, after conviction, has all to gain and nothing to lose. In a civil case, a new trial opens the whole case, and thereby often deters a party from appealing, and I am sure that a statute of this character would prevent many appeals in homicide cases, and tend to the better administration of justice, and would cause no one to suffer any injustice, while under the present system, an injustice is done society.

Another matter which cannot be too strongly urged upon the Legislature is where a defendant, after indictment, pleads insanity, that this plea should be tried separately from the plea of not guilty.

The plea of not guilty by reason of insanity should also, in my opinion, be tried by a separate jury.

The present system in Alabama allows the same jury to try both issues, but the Code directs that if they find the defendant not guilty by reason of insanity, that they shall so report to the court, and it thereupon becomes the duty of the court to organize a jury to try the question as to whether such insanity in any wise continues.

In all the criminal history of this State, I have been unable to learn of a single instance in which a jury has rendered a verdict of not guilty by reason of insanity, although it is a matter of common knowledge that this is a very popular defense to cold-blooded, willful and deliberate murder, and it is often accepted by the juries when the juror will himself tell you that he was firmly convinced that the man was sane, but accepted the excuses which this plea allows the defendant to present, and which were presented for the sole purpose of trying the case upon a false issue. This change in our method of criminal procedure will, in my opinion, do more to reduce the number of homicides in Alabama than all the other remedies which have been suggested. In fact, this plea is not now even referred to as a plea of insanity, but as a plea of the unwritten law.

A matter of vital importance is the system of special charges prevailing in this State. The recommendation of my predecessor, following the statute, was confined to criminal cases, but this defect in our system is so glaring, and applies as much to civil as to criminal cases, that I cannot refrain from making my recommendation cover both. That our special charge system is a vicious one, and one which tends to defeat rather than to promote the administration of justice, no lawyer can deny. At a special session of the State Bar Association held in the city of Montgomery while the Legislature was in session during the early part of the year of 1911, I presented to that association a resolution upon

this subject, and after careful consideration and discussion, a bill was drafted and recommended by the association to the Legislature, but the bill was allowed to sleep in committee and never saw the light of day.

This special charge system is of more injury to the State of Alabama in the enforcement of its laws and the administration of justice, both civil and criminal, than all other defects which could be pointed out.

The authority of the Attorney General is too circumscribed to allow him to be in fact as he is in theory, the chief law officer of the State. He has no authority whatever in criminal matters except after an appeal is taken and the record filed in the Supreme Court. This should not be so. He should have authority to appear in person, or by assistant, before any grand jury in the State and present any matter or charge to them for investigation with the same authority as is now vested in the solicitor. Authority should likewise be conferred upon him in person, or by assistant, to take charge of any criminal case at any time he sees proper, either before or after indictment, the solicitor being required to assist him in such cases when requested.

He should employ, when in his judgment it is for the public good, with the approval of the Governor, all special counsel, who should be under his direction and control, and should perform the duties assigned them as special Assistant Attorneys General. No special counsel should be employed by any other officer or authority of the State. I repeat, he should be in fact, as he is in theory, in charge of the State's legal department.

Whenever any proceeding is instituted in the name of the State upon the relation of any citizen, a copy of such information should be required to be served upon the Attorney General, and he should be authorized to appear in such cause, if he considers the question involved of sufficient importance to the State, and represent the

interest of the State, whether this interest of the State, in his judgment, be with the relator or opposed thereto.

The solicitors should be required to advise the county commissioners and boards of revenue and the county officials of the counties within their jurisdiction whenever requested, as to any matters connected with their office, or the affairs of the county, and to represent the county in all suits which may be brought by or against it, and to represent all county officials, when requested, and the matter involved is one that affects their official acts, not however, including suits upon their official bonds. The solicitor should also be required to institute in the name of the State any proceeding which the Attorney General is authorized to institute, when directed so to do by the Attorney General in writing. He should also be required to represent the State in all matters affecting the public revenue which arise within his jurisdiction.

A statute should be enacted providing that all bills of exceptions in criminal cases must be tendered to the trial judge within thirty days after sentence, and signed by him within ten days therafter; all appeals in criminal cases to be taken within thirty days after sentence, and to be returnable to the Supreme Court or Appellate Court on the first Monday after twenty days from the signing of the bill of exceptions or taking of the appeal, and stand for submission on the second Thursday thereafter. All calls of divisions in criminal cases should be abolished.

This last suggestion differs only in detail from suggestions submitted by others to the Committee on Law Reform recently appointed by you.

Respectfully submitted,

ROBERT C. BRICKELL,
Attorney General.

OPINIONS OF THE ATTORNEY GENERAL.

LEGISLATURE, EXPENSES OF.

Hon. John Purifoy, January 19, 1911.
State Treasurer,
Montgomery, Ala.

Dear Sir:—

Your letter of this date requesting me to advise you whether or not under Section 3 of the Act approved February 8, 1907, entitled an act "to make appropriation for the ordinary expenses of the executive, legislative and judicial departments of the State, for the interest on the public debt and for public schools," the appropriation made by Section 3 was intended to cover the legislative expenses of the legislative session of 1907, or whether it was intended to cover such expenses of the session of 1911 now on.

I cannot believe that it was the purpose of the Legislature of 1907 to leave the Legislature of 1911 without funds wherewith to carry on the due business of the Legislature, and I therefore advise you that the appropriation made by Section 3 in the Act above referred to, may be expended for the payment of the expenses of the Legislature now in session.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

THE ALABAMA FIDELITY AND CASUALTY CO.—RIGHT TO USE CORPORATE NAME

January 18, 1911.

Hon. Cyrus B. Brown,
Insurance Commissioner,
Capitol.

Your inquiry of this date, inclosing correspondence between your office and The Fidelity & Casualty Company,

of New York, with the request for my opinion as to whether or not the name adopted by The Alabama Fidelity & Casualty Company is not in violation of Sub-division 1, of Section 3446 of the Code of 1907, received. The purpose of the legislature in the enacting of Sub-division 1, of said section, was to prevent confusion and uncertainty, as stated in the Statute, and to prevent the public generally, from being misled by any similiarity of name, into mistaking one company for another. The words "Fidelity & Casualty" are not of such a character that any corporation or company could obtain any exclusive right thereto. They are general words, denoting the character of business to be pursued, as provided in said Sub-division 1, of said Section 3446, designating the nature of the business. The prefixing of the word, "Alabama" certainly distinguishes the Alabama corporation from the New York corporation, and I do not see how anyone could be deceived thereby. I am therefore of the opinion that The Alabama Fidelity & Casualty Company has a perfect right to the use of the corporate name which it has adopted, and that the adoption and use of such corporate name is not in violation of Section 3446 of the Code of Alabama, and I so advise you. I herewith return the correspondence submitted.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHERIFF'S COMMISSIONS ON FINES AND COSTS.

January 19, 1911.

Hon. W. J. Nesbit,
Asst. Examiner of Public Acct's.
Scottsboro, Ala.

Dear Sir:—

Your letter of January 17th, in reference to commissions of the Sheriff on fines and costs collected by him, received. The authority of the Sheriff to collect any commissions on fines is found in Section 6638 of the Code of 1907, on Page 422 of the 3rd Volume of the Code, and in Section 3722 of the Code of 1907, found on Page 508 of Volume 2 of the Code. The

provision of Section 6638 is as follows: "For levying execution and making money on judgments against confessed under Section 7632 (5423) the same fee as in civil cases."

The provision of Section 3722, is as follows: "Collecting money under execution: For the first hundred dollars, five per cent., for the second hundred dollars, four per cent., and for collecting on sums over three hundred dollars, three per cent., but no commission must be charged on costs."

I therefore advise you that under no circumstances is the Sheriff entitled to any commission on costs collected, but that he is entitled to a commission as provided by the Second Section of the Code above referred to.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHERIFF—PAY OF, FOR FEEDING PRISONERS.

January 21, 1911.

Hon, C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of this date enclosing communication from Mr. J. O. Long, ex-Sheriff of Walker County, received. From my understanding, Mr. Long's contention is that he should be paid for feeding prisoners for sixteen days in January, and not for fifteen. I have examined Sections of the Code to which he refers in his letter to you. Section 1644, providing the terms of County Offices, is a little different in verbiage from Section 1461, providing the terms of State Offices, but the effect of each is the same. If Mr. Long's successor qualified prior to the 16th inst., then he became Sheriff at midnight of the 15th which was the end of the fifteenth day and the beginning of the sixteenth. It is not the policy of the Law to take into consideration parts of a day.

I am further strengthened in this opinion by the provision of Section 1570 of the Code of 1907, which provides "The succeeding officer is entitled to the salary for the day upon

which he is inducted into office, to the exclusion of the retiring officer." While this Section applies to salary and not to fees, it is certainly very persuasive of legislative intent. I am therefore of the opinion that Mr. Long is entitled to pay for feeding prisoners only up to and including the 15th day of January, and that pay for feeding prisoners after that time properly belongs to the present Sheriff, and I so advise you.

I return herewith the letter of Mr. Long.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

REGISTRAR—VACANCY IN OFFICE.

Hon, C. B. Smith, January 24, 1911.
State Auditor,
Capitol.

Dear Sir:—

Your letter of January 23rd, 1911, submitted me for my opinion the following question, "When a vacancy in the office of registrar occurs, and a successor to such registrar is appointed, does the successor hold for a term of four year, or only until the term of his predecessor would have expired?" received.

Section 302 of the Code does not specify whether the person appointed to fill a vacancy upon the Board of Registrars shall hold for the unexpired term of his predecessor or for a full term. However, Section 1474 of the Code does provide that vacancies in all State and County offices are filled by appointment by the Governor, except as otherwise provided; and that the appointee shall hold for the unexpired term.

This Section is a general section providing for the filling of vacancies, and should govern in all cases—not only as to the method of appointment, but also as to the term of the officer so appointed to fill such vacanvy.

I am therefore of the opinion, and so advise you, that a successor to a registrar only holds for the unexpired term of his predecessor.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PROBATE JUDGE-ELECT—NOTICE OF DEATH OF.

January 25, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your communication of this date, requesting my opinion as to who is the proper person to give the notice to you as Governor, of the vacancy in the office of Probate Judge of Autauga County, caused by reason of the death of the Probate Judge-elect, prior to the time his term of office would have commenced, received.

Section 1562 of the Code provides that the notice of death of the Judge of Probate must be given by the Clerk of the Circuit Court of the County for which he was elected. You will notice that the preceding section, Section 1561, requires the Probate Judge to give these notices in the case of the death of any other officer.

While the language of both Sections does not seem to expressly provide for the exact case now under consideration, and examination of these two sections, together with the whole of Article 9, of Chapter 33, of the Code, of which they are a part, makes it clear that it was the purpose of the legislature to provide for notices of all vacancies caused by death.

I am therefore of the opinion, and so advise you, that the Clerk of the Circuit Court of Autauga County, is the proper person to give notice of the death of the Probate Judge-elect of that county.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE SANITORIUM—APPROPRIATION TO.

January 30, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter of January 28th, requesting my opinion as to whether the appropriations for the years 1908, 1909 and 1910, under Section 786 of the Code, can be paid without further legislation, received.

This Section of the Code is a codification of Sections 13, 14 and 15 of the Act approved August 14, 1907, entitled "An Act to establish and maintain a State Sanitorium for consumption and tuberculosis, and to provide for disseminating information upon the nature, treatment and cure of tubercular diseases, and to make appropriations therefor." The language of Section 13 of the Acts and of Section 786 of the Code, so far as it bears upon the question under consideration, is identical. By the terms of the Act, and of the Code, the sums appropriated should be paid by or before the 30th day of September of the years 1907, 1908, 1909 and 1910, but there is a further provision as to the sum appropriated for the year ending on September 30, 1907, as follows: "All of the sums appropriated for the year ending on the 30th day of September, 1907, may be paid after that date. This, of course, renders the appropriation for the year 1907, available without further legislation, but the provision allowing the appropriation for the year 1907 to be paid after the 30th day of September, 1907, being attached to and a part of same Section of the Code and of the Act making the appropriation, is in my opinion, certainly an implied legislative direction that none of the sums appropriated for the years 1908, 1909 and 1910 shall be available after the 30th day of September in each of said years—much stronger than if the Act had not provided for the payment of the appropriation for the year 1907, after the 30th day of September.

I am therefore of the opinion, and so advise you that the sums appropriated to be paid by or before the 30th days of September, 1908, 1909 and 1910, which have not been used, are

not now available and may not now be used without further legislative authority.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ASSISTANT EXAMINER OF PUBLIC ACCOUNTS—PAYMENT OF.

Hon. Emmet O'Neal, February 1, 1911.
Governor,
Capitol.

Dear Sir:—

Your communication of January 31, submitting to me the claim of Mr. H. Y. Brooke as assistant examiner of public accounts, and requesting my advice as to whether you would be justified in approving the same, received. Section 546 of the Code prescribes the compensation of each of the assistant examiners shall be fixed by the Governor at not exceeding five dollars per day while actually employed for the State, and the Governor may also allow the examiner and each assistant examiner the additional sum of not more than two dollars and fifty cents per day for expenses while actually employed for the State; and the Governor shall prescribe the time for which said examiner and assistant examiners shall be employed. I have not been able, after a somewhat careful examination of the authorities, to find any authority construing the words "actually employed" as they are used in this connection. I am, however, of the opinion that the words "per day, while actually employed," refer to the period of time during which the Governor shall have prescribed that they should be employed, and that during the time so prescribed by him, they are entitled to such compensation as he may fix, not to exceed five dollars per day, and to such expenses as he may allow, not to exceed two dollars and fifty cents per day for each day during this period, whether the day be Sunday, Monday or any other day. I herewith return you the account of Mr. Brooke.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

HARRISON BENEVOLENT BURIAL ASSOCIATION—A MUTUAL AID ASSOCIATION.

February 2, 1911.

Hon. Cyrus B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

Replying to that portion of your inquiry of January 18, in reference to the Harrison Benevolent Burial Ascociation, of Birmingham, in which you request me to advise you whether or not this association is a mutual aid association, under the control of your department as provided by Section 3564 et seq. of the Code of 1907, I beg to advise you that after carefully considering the form of certificate which they issue, and the by-laws of the association, together with the papers sent me (which I herewith return), I am clearly of the opinion that this association is a mutual aid association as defined by Section 3564 et seq. of the Code, and I so advise you.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

INSURANCE COMPANIES INCORPORATED UNDER SPECIAL LAWS—SUBJECT TO SUPERVISION OF INSURANCE DEPARTMENT.

February 2, 1911.

Hon. Cyrus B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

Replying to your communication of January 18th, made through your Deputy Commissioner, Mr. H. W. Laird, I return you herewith the papers sent me.

The Industrial Insurance Company was incorporated by an act of the legislature approved February 18, 1895, and found on Page 1083 of the Acts of 1894-5. The Life & Accident Insurance Association of Birmingham, Ala., was incorporated by an act of the legislature approved December 9, 1896, which

is found on Page 242 of the Acts of 1896-7. The act founding the insurance department was an act approved February 18, 1897, and found on Page 1377 of the Acts of 1896-7. It will be observed that both of these companies were chartered by the legislature prior to the passage of the Act of February 18, 1897, and also that that act made certain exceptions as to companies engaged in the insurance business which should not be subject to its provision. This act has been frequently amended and enlarged by succeeding legislatures, but in none of the Acts have the provisions excepting companies from its operation been enlarged. An examination of the exceptions provided by the acts of February 18, 1897, and of the subsequent acts amendatory thereof, reveal no exception which would include either the Industrial Insurance Company or Life & Accident Association of Birmingham, which last named company, I understand, has changed its corporate name to that of "Birmingham Casualty Comapny."

I am therefore of the opinion, and so advise you, that both of the companies above named are companies such as come under the superintendence of your department and should be subject to the provisions of said Act of February 18, 1907, and the acts amendatory thereof, which are now incorporated into Chapter 99 of the Code of 1907, and I so advise you.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

MUTUAL AID ASSOCIATIONS—TAX UPON.

February 4th, 1911.

Hon. C. B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

Your letter of February 3rd in reference to a tax on gross premiums which should be paid by mutual aid companies outside the State, received. Section 2089 of the Code, as amended by the act approved July 31, 1910, found on Page 337 of the acts of the special session of 1909, provides for the pay-

ment of a tax of one dollar and fifty cents on each one hundred dollars of gross premiums received by fire insurance companies in this State, and two dollars on each one hundred of gross premiums received in this State by every other insurance company. However, Article 13, Chapter 69 of the Code, deals exclusively with mutual aid companies, and Section 3565 which is a part of that Article, prescribes that such companies shall pay a tax of 1 per cent. on net premiums received in this State—meaning gross premiums less returned premiums, and twenty dollars license fee.

While the act amending Section 2089 of the Code is a subsequent enactment to Section 3565, still the section which the acts amends, was a part of the Code adopted at the same time as Section 3565, and an examination of the amendment discloses no purpose thereby to repeal or affect Section 3565.

I am therefore of the opinion, and so advise you, that mutual aid companies and associations shall pay, "a tax of 1 per cent. on net premiums received in this State after February 28, 1903, during the calender year preceding, meaning gross premiums less returned premiums, and twenty dollars license fee.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

NOTARY PUBLIC, EX-OFFICIO JUSTICE OF THE PEACE—HAS NO AUTHORITY AFTER EXPIRATION OF TERM OF OFFICE.

February 8th, 1911.

Hon. Emmet O'Neal,
Governor.
Capitol.

Dear Sir:—

Your letter requesting me to advise you whether or not a notary public and ex officio justice of the peace whose term of office expired on January 16, 1911, now has the right to issue warrants of arrest, and if he so issues warrants of arrest, whether or not the same are void, received.

The office of notary public ex officio justice of the peace is provided for by Section 168 of the Constitution. This section differs in many particulars from the corresponding section—Section 26, of Article 6, of the Constitution of 1875. The Constitution of 1875 provided for the appointment by the Governor of one notary public ex officio justice of the peace for each election precinct in counties, and one for each ward in cities of over five thousand inhabitants; and further provided that the term of office of such justices of the peace and notaries public should be prescribed by law.

Section 168 of the present Constitution provides: "The Governor may appoint notaries public without the powers of a justice of the peace, and may, except where otherwise provided by an act of the Legislature, appoint not more than one notary public with all the powers and jurisdiction of a justice of the peace for each precinct in which the election of justices of the peace shall be authorized.."

Section 3034 of the Code of 1896 provided for the appointment of notaries public ex officio justices of the peace, who should hold office "for the term of three years from the date of his commission and until his successor is qualified.

Section 5175 of the Code of 1907 provides that notaries public ex officio justices of the peace "shall hold office for the term of four years from the first Monday after the second Tuesday in January 1911, and every four years thereafter."

On May 25, 1908, my pedecessor as Attorney General, advised your predecessor as Governor, that the terms of notaires public in office at the time of the adoption of the Code of 1907, were not extended by the Code; and that such notaries public must be re-appointed.

Mr. Meeham, in his work on Public Officers, Section 396, lays down the rule "that upon the expiration of the term of an officer, unless he is authorized by law to hold over, his rights, duties and authority, *ipso facto,* cease."

However, Mr. Meecham, in Section 397 of his work above quoted, modifies this principle to the extent of holding that in the absence of a provision expressly or impliedly prohibiting it, the incumbent may hold over until the qualification of his successor."

You will observe that the provision of Section 3034 of the Code of 1896—"and until his successor is qualified," is omitted from the provisions of Section 5175 of the Code of 1907.

It cannot be presumed that the legislature, in omitting the provision "and until his successor is qualified," did so without some purpose in view. The only reasonable purpose which it could have had in view was to prevent them from holding over.

I am therefore of the opinion that the omission of a provision allowing notaries public ex officio justices of the peace to hold over until their successors are qualified, made the office of notary public ex officio justice of the peace vacant on the first Monday after the second Tuesday in January, 1911; and that no person has a right to issue any warrants or to exercise any of the authority of a notary public ex officio justice of the peace, unless he has been appointed to that office on or since the first Monday after the second Tuesday in January last, being the 16th day of January, 1911.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

INSURANCE COMPANIES—TAX UPON.

February 9, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

I am in receipt of your favor of the 8th inst. inclosing letters from Mr. Morgan S. Gilmer, Tax Assessor of Montgomery County, and from Mr. J. L. Holloway, and asking me to advise you whether or not a tax assessor should make an assessment on the capital stock of insurance companies under Section 4570 of the Code.

In reply to your favor, I beg to advise you that Section 4570 of the Code, upon which Mr. Gilmer relies in making this assessment, provides that insurance companies shall pay a certain tax *in the same manner as foreign insurance companies.* Section 4557 of the Code, and the Act of Aug. 31, 1909 amending Section 2089 of the Code, provides that foreign insurance companies shall pay certain taxes *to the insurance commissioner.*

I therefore advise you that, in my opinion, a tax assessor has no authority under Section 4570 of the Code to assess any insurance company for any tax other than its property tax.

I return you herewith the papers sent me.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE DEPOSITARIES—CONSOLIDATION OF.

February 10, 1911.

Hon. John Purifoy,
State Treasurer,
Capitol.

Dear Sir:—

Your letter of February 9th, requesting me to advise you upon the status of certain banks in your letter mentioned as depositaries of the State funds, received.

Section 642 of the Code makes a deposit of not less than ten thousand dollars par value of bonds of the State of Alabama a condition precedent to any bank being designated as a State depositary, and under this provision no bank can legally be a State depositary unless it has bonds to the amount of not less than ten thousand dollars deposited with you.

Under Section 650 of the Code, a bank once having deposited its bonds and become a State depositary, is without authority to withdraw any part of the bonds so deposited, unless it ceases to act as a State depositary as provided by Sections 650 and 651 of the Code, and you have no authority to permit any bonds so deposited with you to be withdrawn.

Where two banks, both of which are depositaries of State bonds, have consolidated under a new name, I think the proper course would be for the new bank to make an application and be again designated, the bonds remaining in your charge and being re-assigned in the name of the new bank.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

EXPERIMENTATION STATION—APPROPRIATION FOR.

February 15, 1911.

Hon. C. S. Smith,
State Auditor,
Capitol.

Dear Sir:—

Replying to your letter of the 15th inst., asking to be advised as to your authority to draw your warrant in favor of the Experiment Station of the Alabama Polytechnic Institute for the quarter beginning January 1, 1911, for $6,750.00, under the Act approved February 9, 1911, I beg to say that upon investigation of this matter, I find that the question is one of the interpretation or construction of the act. The act provides for an appropriation of $27,000 annually, for four years, beginning with 1911, provided that the Governor must certify that the condition of the Treasury warrants this appropriation for the years 1912, 1913 and 1914.

In construing an act of the legislature, the intent of the legislature must govern where any ambiguity or uncertainty arises. "The object of all interpretation of Statutes is to ascertain and carry out the intention of the law makers, and when the intention is ascertained it must always govern. The intention of the legislature must be sought in the statute itself, and it is only when the act is of doubtful or ambiguous meaning, that the province of interpretation or construction begins."

28 Am. & Eng. Ency., 597.

In arriving at the intention of the legislature, it is necessary to consider the object sought by the Statute, and to consider the evils to be remedied or the benefits to be derived therefrom.

28 Am. & Eng. Ency. 598-9,
B7 Dec. Dig. 7982.

In the present case the object sought is to prepare the farmers of Alabama for the coming of the boll weavil by agricultural experiments, and it is clear that, to best derive the benefits conferred, it is necessary for the experiments to begin during the present quarter, while the farm lands of the State are being prepared for the planting of crops.

The statute here is not clear as to the time of the beginning of the appropriation therefor, and under the rule as above quoted, which has been almost unanimously adopted, it is necessary to investigate the act itself and to determine therefrom as to the intent of the law makers with reference to this appropriation.

Section 2 of the act provides as follows: "There shall be, and there are hereby appropriated * * * * the following sums *annually* for the purposes mentioned below." Section 3 of the act says that if the Governor shall certify that the condition of the Treasury warrants, then this appropriation shall continue for the years 1912, 1913 and 1914. From the reading of these two sections, there can be no doubt that the legislature intended to authorize the appropriation of the full amount of $27,000.00 for each of the calendar years, 1911, 1912, 1913 and 1914. Section 4 makes this appropriation payable quarterly, in advance, on the 1st day of January, April, July and October of each year.

As above stated, it is my opinion that the legislature intended to appropriate the full amount mentioned for each year; that the statute authorizes payment in quarterly installments for the quarter beginning January 1st. While, by reason of the fact that the act was not approved until February 9, 1911, it is impossible to comply with the terms of the law for the present quarter, still, I do not conceive that the law makers intended that this appropriation should not begin until April, for if this were so, the appropriation for the present year could not reach the full amount appropriated. The facts that the appropriation is made in advance for the quarter, and that it is made by the calendar year, shows conclusively that the legislature intended that the appropriations should begin with the present quarter. There is nothing contained in the act to indicate any other intent on the part of the legislature.

Therefore, it is my opinion, and I so advise you, in view of the wording of the statute and the rule of interpretation above mentioned, that you are authorized to draw your warrant for the amount mentioned in your letter, ($6,750.00) for the quarter beginning January 1, 1911.

I herewith return the papers handed me in connection with this matter.

Yours very truly,

ROBERT C. BRICKELL,
Attorney General.

COPIES OF OPINIONS, SUPREME COURT—LIABILITY OF CLERK FOR FAILURE TO COLLECT.

February 18, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Replying to your inquiry of this date in reference to the liability of the Clerk of the Supreme Court for failure to collect for copies of opinion of the Supreme Court, furnished by him to parties applying therefor, I beg to say that in my opinion, all that should be required of the Clerk would be reasonable diligence in collecting the fees for such copies.

The circumstances which lead to a demand for copies of such opinions, are often such that it is absolutely essential that copies of the opinions be forwarded without waiting payment therefor, as the attorney or party ordering them could not know in advance what amount to send. I cannot believe it was the intention of the Legislature to prohibit the furnishing of copies of these opinions with all speed and diligence.

I am therefore of the opinion, and so advise you, that the Clerk of the Supreme Court would not be liable for this class of costs, which was not collected by him, unless he failed to use reasonable diligence to secure these collections. I return you herewith letter of Mr. Ligon.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LOCAL LAW AUTHORIZING COUNTY TO BORROW MONEY CONSTITUTIONALITY OF.

February 23, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Replying to your inquiry requesting me to advise you whether the legislature has the constitutional authority by a

local law to authorize the County Commissioners of Tallapoosa County to borrow $20,000 for that County and issue the interest bearing promissory notes, or County warrants of said County for the same, I beg to advise you, that in my opinion, the legislature has no such constitutional authority.

Section 104, of the Constitution provides that the legislature shall not pass a special, private or local law in any of the following cases; Sub-division 17, of said Section is as follows: "authorizing any County * * * * * to issue bonds or other securities, unless the issuance of said bonds or other securities, shall have been authorized before the enactment of such local or special law, by a vote of the duly qualified electors of such County."

The question here presented turns upon the construction of the word "other securities" as used in Sub-division 17. The word "security" is defined in 2 Rapalje & Lawrence Law Dic., p. 1163, as follows: "A security is something which makes the enjoyment or enforcement of a right more secure or certain." "Securities" are then divided further in nine different classes, the first of which is a "personal," under which is included a bond, bill of exchange or promissory note. As such obligation makes the liability on such instrument more easy of proof than the debt itself without such obligation.

The word "security" is also held to include promissory notes (See 25 Am. & Eng. Ency. of Law, 2nd Edition, p. 181).

I am further led to this conclusion by the expression of the Supreme Court of Alabama, in Hagan v. Commissioners' Court, 49 So. 317, wherein the Supreme Court of Alabama held that warrants of a county, issued to be paid in the future, constituted an indebtedness under the provisions of Sections 215 and 224 of the Constitution, placing a limit upon the indebtedness of Counties.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

MIXED FEED STUFF—ENFORCEMENT OF LAW IN REFERENCE TO SALE OF.

February 24, 1911.

Hon. Reuben F. Kolb,
Commissioner of Agriculture & Industries,
Capitol.

Dear Sir:—

I am in receipt of your favor of the 24th inst., asking me to advise you what is the proper course for you to pursue in the enforcement of an act "To provide for and regulate the manufacture, sale and inspection of mixed feed stuffs in Alabama, and to provide penalties for violation of this act."

The act in question provides that every lot or parcel of mixed feed stuffs intended for sale in this State shall have printed on the bag or package containing it, a statement certifying the net weight thereof.

The act further provides that the Commissioner of Agriculture & Industries shall make requisition upon the Auditor for the estimated number of tags required to supply the demand therefor during the year for which such requisition is made; that thereupon, the Auditor shall have printed a sufficient number of tags and stamps intended to be used, in three denominations, viz.: ½ cent, ¾ cent and 1 cent.

There is no provision in this act that manufacturers shall be required to purchase from the Commissioner the tags or stamps provided for therein; nor does it provide how the tags or stamps of different denominations shall be used with regard to the weight of the bag or package to which they are intended to be attached.

In my opinion, you have no authority under the act, to enforce the purchase of tags and to regulate the character of tags to be attached to different weight bags.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

JUDGE OF PROBATE, CHARGES OF—AUTHORITY OF COUNTY TO BORROW MONEY—WARRANTS AGAINST COUNTY ROAD FUND.

Feb. 27, 1911.

Hon. W. F. Wilkinson,
Assistant Examiner of Public Accounts,
Dothan, Ala.

Dear Sir:—

Your communication of February 24th, 1911, submitting to me certain questions for my opinion, received.

The first question which you submit, is, if the Probate Judge can legally charge for any duty performed, where fees are not specified, after he has exhausted the $200.00 allowed him in the Code, for extra services, and you direct my attention to items as follows:

"For 39 cases in the county court, extra services, and expenses to Montgomery, $308.20"; and to another "Extra services, etc." The fees and compensation of the Probate Judge, are fixed by law, and he has no right or authority to make any charges for any services for which the law does not expressly authorize a charge to be made, and the sum of $200.00 allowed him by Section 3720 of the Code of 1907, is intended to be in payment of all services which he may render, for which compensation is not provided by law.

I am therefore of the opinion, and so advise you, that the charges for extra services, to which you refer, should not be made.

Your second inquiry is—"Can a County borrow money for road working and general expenses to run County?" On May 27, 1907, my predecessor in office, in answer to a similar inquiry submitted to him by the Examiner of Public Accounts, replied as follows:

"1st. The county has no power to borrow money to pay the ordinary County expenses unless that power is conferred by special legislation:

Simpson vs. Laurerdale County, 56 Ala. 64;
Allen vs. Intendant, etc., of LaFayette, 89 Ala. 641.

In Simpson vs. Lauderdale County, supra, the County was sued on a promissory note given for money borrowed for the

purpose of erecting necessary bridges. In the opinion of Chief Justice Brickell, the Court held that the plaintiff could not recover because the County was not authorized to borrow the money. In Allen vs. Intendant, etc., supra, Justice McClellan discussed this question at great length, and pointed out that in the Simpson case, "It was not sought to charge the County for that it had received plaintiff's money and actually used it for a legitimate County purpose, and in this case the Court held in effect that where money was borrowed by the municipality of LaFayette without authority of law for a legitimate purpose and was used and applied for the benefit of the town in a way and to an end fully authorized by its charter, a repayment of the money borrowed could be made by the corporate authorities." So I conclude that where a county borrows money without authority of law, but for a legitimate purpose and uses and applies the proceeds of the loan for that purpose, the County may be required to repay the loan with interest thereon.

The County Treasurer, before paying warrants drawn on him for the repayment of such a loan, must satisfy himself that the loan was so used by the County. Repayment of any part of a loan not so used could not be enforced by the creditor, and if the Treasurer makes payment voluntarily, the burden is on him to sustain the validity of the warrant along the lines I have suggested.

This, in my opinion, is a correct statement of the law, and should be sufficient guide to you upon this question.

The third question submitted by you, is, "Has the Commissioners' Court authority to order warrants issued against the general fund of the county for road working, when there is a road tax, provided the road tax is exhausted?"

Section 5766 of the Code of 1907 provides that the Court of County Commissioners, or Board of Revenue, may transfer to the Road Fund of the County, any surplus or part of surplus of the general fund of the County, whenever in its judgment the interests of the County will be promoted by such transfer.

Therefore, I am of the opinion, and so advise you, that the Court of County Commissioners has authority to order warrants issued against any surplus of the general fund of the county, for road working, whether there is a road tax, and whether that road tax has been exhausted or not; but that it does not

have authority to issue warrants against the general fund for road working if there is no surplus in the general fund.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General

TAX LANDS—RE-PAYMENT OF PURCHASE PRICE OF.

February 27, 7911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter of February 22nd, requesting my opinion as your authority to make re-payment of the claim of Coleman & Hogue for a refund of the purchase price paid to the State, for certain lands sold at private sale by the State, under the facts and papers transmitted to me, received.

This same matter was dealt with by my predecessor, in an opinion given by him to the then State Auditor, Hon. W. W. Brandon, on December 18, 1908, which opinion is to be found on pages 19-20-21 of his biennial report for the years 1908-1910.

Section 2329 of the Code of 1907, is as follows:

> "When lands which have been bid in for the State at tax sales have been sold by the State at private sale, and the purchase money has been paid into the State Treasury, and it shall be made to appear to the satisfaction of the State Auditor and of the Governor that such tax sale was invalid by reason of the fact that the taxes for which the land was sold were not due, the State Auditor, with the approval of the Governor, may, upon the surrender and cancellation of the deed executed by the State Auditor to such purchaser, draw his warrant on the State Treasurer, in favor of such purchaser, his heir or representative, for the amount of money so paid to the State for such land, and the Treasurer must pay the same. But no such sale shall be cancelled and the purchase money

refunded unless application therefor be made within two years from the date of such sale."

You will observe that the manner of causing these facts to appear to the satisfaction of the State Auditor and of the Governor, is not provided by statute, and it is therefore, of necessity left to their sound discretion and judgment, as to the character of evidence which they will accept as satisfactorialy showing the existence of the facts upon which their action must be predicted. From the papers transmitted to me, it appears that the lands in question were sold by the State to one, Gaunt Crebs, in the year 1904; that the money paid by Crebs for the purchase of these lands, has been paid into the State Treasury; that application for a refund of the purchase money was made within the two years as prescribed by the statute; that Mr. Crebs has transferred and assigned his interest in such fund, to Messrs. Coleman & Hogue, and that they are now his representatives and entitled to receive any sum which would be refunded to said Crebs, if he were the applicant therefor. It also appears from the amended certificate, of the Judge of Probate and Tax Collector of Mobile County, that the taxes for which these lands were sold and brought in by the State, were not due, for the reason that the taxes on said lands had been paid by the rightful owners when assessed to them, and that where assessed to others than the rightful owner, the taxes had been paid by the rightful owner; and where lands were sold under an erroneous description, that the taxes had been paid on the property under its correct description.

The question of the sufficiency of this proof, is of course, one which rests in the sound discretion of the Governor and the Auditor, and while the papers transmitted, tend to establish all the necessary facts required by the statute, the determination of their sufficiency as evidence, must rest in your sound discretion, as above stated.

In the opinion rendered by my predecessor, to which your attention has already been directed, there is a class of land for which claim was then made, upon the ground that the lands had been purchased by the State more than twenty years before they were sold to Mr. Crebs, and that therefore, the statute of limitations of twenty years, could have been pleaded

as against the State, and that no title could pass to the purchaser and he was therefore entitled to a refund as to those lands whether the taxes for which they were sold were due or not; and as to this class of lands, my predecessor very properly advised that no negotiation for a refund of the purchase money in such cases should be entered into. But from the papers before me, it does not appear that any such claim is now made.

I am, therefore, of the opinion, and so advise you, that if the evidence causes the facts which it tends to show, to appear to your satisfaction and that of the Auditor, that you should direct a warrant to be drawn in favor of Messrs. Coleman & Hogue, for the amount of money so paid to the State for such land.

I return you herewith the papers transmitted to me.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PROBATE JUDGES—FEES OF.

February 28, 1911.

Hon. W. F. Wilkinson,
Ass't Examiner of Public Accounts,
Dothan, Ala.

Dear Sir:—

Your letter of February 27th, in reference to the fees of Probate Judges, received.

Section 6656 of the Code of 1907, is the same as Section 4579 of the Code of 1896, except that the following provision was inserted in said Section by the Code Committee: "If the warrant is issued by him, and a demand for jury is made, two dollars." The first provision of said sections in both the Code of 1907 and the Code of 1896, is as follows: "If the warrant of arrest is issued by him, then for all the proceedings had before him in each case, including bond and certified copy of proceedings on appeal, $4.00."

The effect of the insertion by the Code Committee, was to reduce the fee of the Probate Judge from $4.00 to $2.00, in

the specific instance in which the Committee saw fit to insert the provision above quoted, from $4.00 to $2.00, and it is clear that under Section 4579 of the Code of 1906, the Probate Judge was entitled to receive $4.00 where the warrant was issued by him and a demand for a jury was made, although he is entitled, under Section 6656 of the Code of 1907, to only $2.00 therefor.

Section 281 of the Constitution provides as follows: "The salary, fees or compensation of any officer holding any civil office of profit under this State or any county or municipality thereof, shall not be increased or diminished during the term for which he was elected or appointed." The effect of the insertion of the provision above quoted in Section 6656 of the Code, was to reduce the fees of the Probate Judge during the term of his office, and under the provision of Section 281 of the Constitution above quoted, its operation must have been postponed until the expiration of his then existing term, and he was entitled to charge $4.00 for his services under Section 4579 of the Code of 1906; while his successor in office will be governed by the provision of Section 6656 of the Code of 1907.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FIRE INSURANCE COMPANIES—TAX ON.

February 28, 1911.

Hon. Cyrus B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

Your letter of February 27th, requesting my opinion as to the liability of Fire Insurance Companies for the tax imposed by Section 5, of the Act approved August 31, 1909, known as the "Fire Marshal Act," received

The language of Section 5 of the Act which imposes this tax, is plain and unambiguous and leaves no room for construction. It is as follows, so far as material to the question here presented: "For the purpose of defraying the expenses

incident to the provisions of this Act, and the salary of the Deputy Commissioner, every Fire Insurance Company doing business in the State of Alabama, shall pay to the Insurance Commission, annually, in addition to the taxes now required by law to be paid by such Companies, one fifth (1/5) of 1 per cent. on the gross premiums of such Companies, less returned premiums on all business done in Alabama the year next preceding, as shown by their annual statement, under oath, to the Insurance Department."

There is no exception in the statute for marine business, and certainly where the language of the statute is clear, you have no authority to read the exception of marine business into the statute.

I am therefore of the opinion, and so advise you, that you should collect this tax upon the gross premium receipts of such Companies, less returned premiums, and are not authorized to deduct premiums on marine business.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CLERK OF COMMISSIONER OF AGRICULTURE MAY ALSO BE SECRETARY OF BOARD OF AGRICULTURE.

March 3, 1911

Hon. Reuben F. Kolb,
Commissioner of Agriculture,
Capitol.

Dear Sir:—

Yours of March 2nd, requesting me to advise you as to whether or not a clerk in your office, as Commissioner of Agriculture, can also hold the position of Secretary of the State Board of Agriculture, recently created by an Act of the Legislature, from which he will get a compensation, received.

There is no legal inhibition upon clerks of the Departments—they not being officers of the Government—holding two or more places, and if in your opinion, your clerk can also perform the duties of Secretary of the State Board of Agri-

culture satisfactorily, it is a matter which I think would rest entirely in your discretion.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CLERK OF SUPREME COURT—FEES OF.

March 6, 1911.

Hon. C. B. Smith,
Auditor,
Capitol.

Dear Sir:—

Yours inclosing the inquiry of Hon. R. F. Ligon, Clerk of the Supreme Court, in reference to the fee for "each appeal or writ of error" allowed the Clerk of the Supreme Court under Section 3719 of the Code of 1907, received.

I am of the opinion that such fee attaches and accrues whenever the appeal of writ of error is filed and docketed in the office of the Clerk of the Supreme Court.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FEES OF SOLICITOR—LIABILITY OF CLERK FOR CORRECTNESS OF.

March 9, 1911.

Hon. Charles E. McCall,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter of March 7th, in reference to certain fees in criminal cases, received.

From your letter it would appear that at the spring term of 1908, of the Circuit Court of Pickens County, upon certain convictions there was collected by the Clerk, in one case, Solicitor's fee of $7.50, when in fact the fee fixed by the Code for that

class of case, was $50.00. And in a number of misdemeanor cases tried at that term, in which the indictments were found and the causes tried after May 1, 1908, Solicitor's fee of $7.50 was charged—although a fee of $10.00 should have been charged as provided by the Code. But it further appears that in all these cases, the Solicitor certified to the Clerk that the Solicitor's fee was $7.50.

Section 7796 of the Code provides that each Solicitor who is paid a salary by the State,, shall within ten days after the adjournment of any term of court, make and deliver to the Clerk of the Court and forward to the State Auditor, a certified statement showing, among other things, the amount of the Solicitor's fee in each case. According to the provisions of Section 7797 of the Code, it is the duty of the Auditor to charge against the Clerk, the amount of the fees as certified by the Solicitor.

While it is clear that the fees which were collected by the Clerk were not the proper fees, but were less than the amount of fees fixed by law, it also seems clear, from the provisions of Section 7796-97 of the Code, that both the Clerk and the Auditor are expected to be guided by the report of the Solicitor as to the amount of such fees, and that thereby the duty of determining in the first instance the amount of such fees is placed by law upon the Solicitor, and not upon the Clerk.

I am therefore of the opinion, and so advise you, that the Clerk of the Circuit Court should only be charged with such fees and such amounts as are certified by the Solicitor to the Auditor and to the Clerk; that the error is the error of the Solicitor, and not of the Clerk; and that the Clerk should not be charged therefor.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ESCAPED TAXES—COMMISSIONS ON.

March 9, 1911.

Hon. Charles E. McCall,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Yours of March 7th, in reference to certain escapes taxes, received.

It appears from your letter that during the year 1908, in Pickens County, there was a large number of assessments of escaped taxes reported by the Tax Collector to the Probate Judge, and by the Probate Judge entered on the book of assessments under the heading, "Escaped by Tax Collector," which were made by the Assessor and the lists delivered at once to the Collector, who immediately collected the taxes thereon assessed and reported the same with the taxes which the Collector had escaped to the Probate Judge; that these assessments were made by the Assessor for taxes which escaped during the term of his predecessor, but that they were not entered upon the books of assessments by the Assessor, nor were the lists upon which the assessments were made, delivered to the Probate Judge for the consideration of the Commissioner's Court.

Under Section 2119 of the Code, it is made the duty of the Tax Collector to assess all property which he shall discover has escaped taxation within the preceding five years, and his failure to so assess it, is deemed wilful neglect of duty.

Under Section 2121 of the Code, et seq., the Assessor is required to deliver all assessments to the Court of County Commissioners and enter all assessments in the book of assessments to be delivered to the Judge of Probate on or before the first Monday in May, of each year. This, it seems from your letter, he did not do.

Under Section 2195, it is made the duty of the Tax Collector, when engaged in the collection of taxes, if he discovers that any property has not been assessed, to assess and collect the taxes due on the same, and in writing notify the Tax Assessor of the property so escaped.

From your letter, and the facts therein stated, it would appear that the Tax Collector, in fact, made these assessments

as provided by Section 2195 of the Code, and they were not made by the Tax Assessor in accordance with the provisions of Section 2119 and 2121, et seq., of the Code.

I am therefore of the opinion, and so advise you, that under the law, the Tax Assessor would not be entitled to receive commission for the taxes so attempted to be escaped by him, which were entered upon the book of assessments or returned on lists to the Probate Judge or the Commissioners Court.

Your second question is in reference to the allowance of commissions to the Tax Assessor upon escaped assessments made according to the requirements of law, and whether or not commissions should be paid him upon special State taxes or upon County taxes collected upon such escaped assessments.

Section 2097 of the Code provides that the Tax Assessor shall be entitled to receive from the Tax Collector, out of the first moneys collected for the State, certain commissions on State taxes, whether general or special, assessed by him, also the same commissions on County taxes whether general or special, regularly assessed. The concluding paragraph of said section of the Code is as follows: "He shall receive five per cent. of the amount of general State taxes upon property assessed by him, which has escaped taxation in the previous year, such previous assessment not having been made while he was Tax Assessor." You will observe that in this section, a distinction is drawn between general and special State taxes, and also in the same section, between general and special County taxes, and his commissions upon each are fixed, while in the concluding portion of the section above quoted, his commission upon property which has escaped taxation is fixed at 5 per cent. of the amount of the general State taxes. Here in the same section, a distinction is drawn between general and special taxes and between general and special County taxes, and a commission is fixed upon each of these, and an additional commission is fixed for escaped assessments, only on the general State taxes. It cannot be that the Legislature had in mind, or intended to allow commission upon any escaped taxes other than what the plain language of the section indicates.

I am therefore of the opinion, and so advise you, that the Tax Assessor is not allowed commissions upon escaped as-

sessments made by him upon the amount of any special State taxes, or upon any County taxes.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CORPORATIONS WITHOUT CAPITAL STOCK—FEE DUE

March 10, 1911.

Hon. C. B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

Yours of this date inclosing letter from Judge J. P. Stiles, Probate Judge of Jefferson County, requesting me to advise you whether Judge Stiles, as such Probate Judge, shall collect from corporations filing articles of incorporation in his office the fee of $2.50, prescribed by Section 3455 of the Code of Alabama, of 1907; from corporations organized under Article 14 of Chapter 69 of the Code, which do not have capital stock; and corporations organized under Article 18 of Chapter 69 of the Code, received.

Section 3455 is a part of Article 1, of Chapter 69, relating to the incorporation of business corporations, and its provisions apply generally to all business corporations, although special provisions are made and special powers granted to certain classes of business corporations by other provisions of that Chapter. The corporations provided for by Article 14 of said Chapter, are of two classes: those which have capital stock, and those which have not capital stock. Those which have capital stock are required by Section 3578 to pay the same fees as are required to be paid by other corporations.

Section 4586 provides that a certified copy of the certificate of incorporation must be filed with the Insurance Commissioner, for which the same fees shall be charged as are provided for in the incorporation of stock companies.

I am therefore of the opinion, and so advise you, that corporations organized under Article 14 of Chapter 69 of the Code of 1907, although without capital stock, are required to

pay the fee of $2.50, as provided by Section 3455 of the Code.

Corporations organized under Article 18, of the Code are denominated by the Code as "corporations not of a business character," and there is no provision made in Article 18 for the payment of such fees.

The provisions of Section 3455, applying to business corporations and corporations organized under Article 18, not being business corporations, and no provision being made in Article 18 for the payment of the fee of $2.50, I am of the opinion and so advise you, that corporations organized under the provisions of Article 18, are not required to pay the fee of $2.50 provided by Section 3455, and that they do not have to file certificate of incorporation in the office of the Secretary of State.

I return you herewith the letter of Judge Stiles.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ACT PROVIDING FOR CONSOLIDATION OF DECATUR AND NEW DECATUR—CONSTITUTIONALITY OF.

March 10, 1911.

Hon. Emmet O'Neal,
Governor.
Capitol.

Dear Sir:—

Your letter requesting my opinion as to the constitutionality of the Act of the Legislature providing for an election to determine whether the cities of Decatur and New Decatur should be consolidated (House Bill No. 48, by Mr. Walden) received.

I have examined the Act and also the briefs of Messrs. Troup & Nix and Eyster & Eyster, sustaining the constitutionality of the Act, and the brief of Messrs. Callahan & Harris, attacking its constitutionality.

The constitutionality of the Act is assailed on two grounds:

(1) That it is a local law and that the notice as given under the provisions of Section 106 of the Constitution, recites that

the question of consolidation should be decided by a majority of all the votes cast in the election, while the Act which was passed, provides that in order for a consolidation of cities to take effect, a majority of the votes cast in each city shall be in favor of consolidation.

Section 106 of the Constitution has often been before the Supreme Court for construction, and in nearly all the cases there is such a different purpose intended to be accomplished by the Act, that the Court could do nothing more than pass upon the identical question presented, leaving but few cases which are direct authority on the point presented in a subsequent case.

However, the Court has established certain propositions, which serve as guides to those desiring to apply for local legislation.

The Court was at first inclined to be extremely technical and strict in construing Section 106, but since the decision in the State ex rel v. Williams, 143 Ala. 501, the Court has pursued a more liberal policy in determining the meaning of the word "substance," as used in Section 106 of the Constitution.

Slight differences, so long as they do not change the general purpose of a bill, and maintain the essential features as provided by the notice, are not sufficient to render the Act unconstitutional.

Thomas v. Gunter, Mss.;
Christian v. State, Mss.

I am therefore of the opinion, and so advise you, that the Act is not violative of the provisions of Section 106 of the Constitution by reason of the change in the Act as passed, from the provisions of the notice.

The second question presented, is, whether or not the Act violates the provisions of Section 105 of the Constitution, which is as follows:

"No special, private, or local law, except a law fixing the time of holding courts, shall be enacted in any case which is provided for by a general law, or when the relief sought can be given by any court; nor shall the legislature indirectly enact any such special, private, or local law by the partial repeal of a general law." The purpose intended to be accomplished by the Act is the consolidation of the cities of

Decatur and New Decatur, by a vote of the people of the two cities. The manner of consolidating cities is provided by Article 5 of Chapter 32 of the Code of 1907, comprising Secitons 1126 to 1132 of the Code. Section 1126 provides a method by which one municipality may annex another municipality, in which case the question of annexation is determined by a vote of the electors of the city or town to be annexed.

Section 1128 provides for the consolidation of distinct municipalities, and provides that the question of consolidation shall be determined by a vote of a majority of the qualified electors in each municipality.

The Act under consideration here is one providing for consolidation of municipalities, and follows the provisions of Section 1128 of the Code, in requiring a majority of the votes of the qualified electors voting in each municipality as provided by that Section. But it departs from Section 1128 as to the manner of calling and ordering said elections. It directs that the election shall be held under the direction of the Probate Judge of Morgan County, upon a petition filed with him by twenty-five voters of each of the cities, while Section 1128 provides that the election to determine the question of consolidation shall be called by ordinance of the City Councils of the two cities, and that the City Councils of the two cities shall also pass ordinances expressing their desire to consolidate.

In the City Council of Montgomery v. Reese, 149 Ala. 188, an act of the Legislature authorizing the City of Montgomery to refund its bonded indebtedness at a rate of interest not to exceed 4 per centum, and by bonds to run not in exceed 40 years, was held violative of Section 105 of the Constitution, for the reason that there was a general act which authorized cities to refund their bonded indebtedness at a rate not exceeding 6 per centum per annum, and with bonds to run not exceeding 30 years. The Supreme Court in that case says:

> "It is not perceivable that the framers of the Constitution intended the prohibition to operate only against special, local or private laws which are in *ipsis verbis* of the general law."

This case was re-affirmed by the Supreme Court in the case of Norwood v Goldsmith, 53 So. 84.

The only difference which is made in the Act under consideration, and the general law, is in the manner of calling an election and putting in motion the machinery of consolidation. The purpose intended to be accomplished by the Legislature in the enactment of Article 5 of Chapter 32 of the Code of 1907, was to provide a method for the consolidation of municipalities in this State. The purpose of the act in question is the same, except that it is intended by the act in question, to provide what is deemed by the legislature to be, we must suppose, a better method in reference to the cities of Decatur and New Decatur. The subject of the consolidation of cities having been fully dealt with by the Legislature by a general law, it seems clear by the provisions of Section 105 of the Constitution, that it cannot be dealt with by a special, private or local law as is here attempted to be done.

I am therefore of the opinion, and so advise you, that the act in question is violative of the provisions of Section 105 of the Constitution, above quoted.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

A. T. N. RAILWAY—EXEMPTION OF FROM TAXATION BY COUNTY.

March 11, 1911.

Hon. Charles E. McCall,
Examiner of Ppublic Accounts,
Capitol.

Dear Sir:—

I am in receipt of your favor of the 7th inst., stating that the State Board of Assessment returns to the tax assessor of Pickens County an assessment of that part of the A. T. N. Railway extending from Reform to Carrolton; that the tax assessor regularly enters on the book of assessments the returns so made by the State Board; that the Probate Judge enters the taxes on this particular assessment, and that they

appear on the abstract delivered to the collector. You state, furthermore, that the court of County Commissioners has heretofore agreed with the A. T. N. Railway Co. that it would not exact from the company county taxes on that part of the road covered by the assessments in question. You desire my opinion whether or not—(1) There is any provision of law for such exemption; (2) whether such an exemption can be considered an error in assessment; (3) if so considered, whether the tax collector is liable; (4) if the tax has been erroneously considered an error, can the tax collector assess the property and collect the taxes thereon as escaped county taxes; (5) what are the proper steps to be taken to enforce the collection thereof, I beg to advise you as follows:

Under Section 2133 of the Code, it is made the duty of any railroad within this State, to make to the State Auditor a return in writing of the total length of such railroad, including the right of way, road bed, side tracks and main track, specifying the total length in each city and county; that (Section 2137) the State Auditor shall report to the Board of Assessment the returns so made to him, and that the board, upon determining the value of such property, shall assess it for taxation. It is further provided (2142) that when the board shall have completed such assessment, "the State Auditor shall notify the tax assessor of each county through which such railroad runs, of the number of miles of track in his county, and the value thereof, and the proportionate value of the other property of such company assessed by the State Board of Assessment, and taxable in his county, which he must enter in a book of assessments, * * * * * to be assessed as other property of like kind owned by private citizens of his county."

It is made the duty of the tax assessor of each county, to prepare certain assessment books containing the amount and value of all taxable property (2122) and to deliver such book to the Judge of Probate (2123). The Judge of Probate delivers to the court of County Commissioners said book of assessments (2147) and that court, on the second Monday in July, meets for the purpose of hearing objections to the assessments contianed therein. This court, in hearing the objections provided for in Section 2148, has no authority or jurisdiction to question the assessment placed on any railroad property

by the State Board of Assessment. "The Legislature levies State taxes and the tax assessor assesses them except the tax on railroads and rolling stock, which is assessed by the Auditor."—

Perry County v. Railroad Company, 58 Ala. 559;
State Auditor v. Jackson County, 65 Ala. 163.

The court of County Commissioners, having no authority to change the assessment of any railroad property as fixed by the State Board of Assessment, it follows that the valuation so placed, must be adopted by the court of County Commissioners, and that the valuation so adopted and the assessments of other property, after correction as provided in Section 2148, form the basis and measure upon which to adjust the correct levy so as to raise revenue necessary for the county's wants.

Code Section 2155;
Perry County v. Railroad Company, 58 Ala. 559.

According to the statement of facts set out in your letter, the tax collector collected from the A. T. N. Ry. Co., the State taxes assessed against it, but under instruction from the commissioners' court, returned the county taxes, "an error in assessment." The collector could have made such a return only under the provisionsof Section 2153, which make it the duty of the court of County Commissioners, "if any errors are corrected or any abatement or deduction in the assessments are made at any time after the collector's book has been, by the Judge of Probate, turned over to the Tax Collector, forthwith to notify such collector of the same," But, in order to reduce the assessment made against the railroad and to correct an elleged error, and in fact, to exempt the railroad from the payment of its county taxes, it is necessary for the court of County Commissioners, to exceed its jurisdiction and to usurp the authority of the State Board of Assessment. Such an act is void for the further reason that it attempts to relieve a corporation from the payment of a county tax, the burden of which rests on private individuals.—

Constitution, Section 217;
Auditor v. Jackson County, 65 Ala. 154.

No responsibility can attach to the Tax Collector for failing to collect the county tax. He was notified by the court of County Commissioners that the assessment against this road for its county tax, was an error. Such a notification, coming to him as a ministerial officer, from other officers whose action he has no authority to revise or review, is sufficient excuse for his action.

Cooley on Taxation, p. 1479.

While the collector is charged with the aggregate amount of taxes as shown by his book of assessments, he is entitled, among other credits, to "amounts allowed by the court of County Commissioners on errors."

Walling v. Morgan County, 126 Ala. 339, 340;
State v. Lott, 69 Ala. 152.

The collector has no authority to assess as an escape, the property in question. It has already been *assessed* by the proper authority. A body, without authority attempted to exempt it from the payment of its county taxes. The property having been assessed and the county taxes thereon having been levied but not paid, there at present exists in favor of the county, a claim against the A. T. N. Railway Co. for its unpaid county taxes for the past five years. All steps required by the revenue laws in the assessment and levy of the taxes on that railroad having been taken, nothing remains to be done but to enforce the collection thereof.

Auditor v. Jackson County, 65 Ala. 160;
Perry County v. Railroad Company, 58 Ala. 560.

The county may enforce the collection of this tax by an action at law for the amount of unpaid taxes which have been assessed and levied for the past five years, with eight per cent. interest thereon—

State v. Sloss, 83 Ala. 93;
Perry County v. Railroad Company, 58 Ala. 564, 567 & 569.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LUMBER—TAXATION OF.

March 11, 1911.

Hon. Charles E. McCall,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter of March 7, 1911, requesting my opinion as to the tax on the A. T.N. Ry. Co., has been answered by separate letter. Also, in the same letter, you inquire in reference to a tax on certain lumber, to which I deem it best to reply separately, and am now so doing.

Under Sub-division 8 of Section 2061 of the Code of 1907, "All manufactured articles, including pig iron, which shall remain in the hands of the manufacturers thereof, on the first day of October of any year, immediately succeeding that in which they are raised or produced," are exempt. From your letter it appears that the lumber in question was sawn during the year previous to the first of October, but that the mill and the lumber changed hands on about the first of September of the next year, and your inquiry is: "Was this lumber subject to taxation in the hands of the purchaser on the first day of October subsequent to the purchase?"

The purchaser, in September was not the manufacturer of the sawn lumber, and the exemption could not apply in favor of the purchaser. It only applys in favor of the manufacturer.

I am therefore of the opinion, and so advise you, that this lumber was subject to taxation in the hands of the purchaser.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

HIGHWAY COMMISSION—APPOINTMENT OF MEMBER OF LEGISLATURE AS MEMBER OF.

March 14, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter of this date, requesting me to inform you whether you would be authorized under the law to appoint a member of the State Senate a member of the Highway Commission just created by the Legislature, and also whether, if appointed, such Senator would be required to resign his office, received.

Section 59 of the Constitution of Alabama, provides "No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any office of profit in this State, which shall have been created or the emoluments of which shall have been increased during such term, except such offices as may be filled by election by the people."

Section 280 of the Constitution provides "No person holding an office of profit under the United States, except Post Masters whose annual salary does not exceed $200.00, shall, during his continuance in such office, hold any office of profit under this State,"—with certian exceptions which are not material here.

The bill establishing a State Highway Commission provides that no member of the committee shall receive any compensation other than his actual expenses. Therefore, this cannot be considered an office of profit, and the Constitutional inhibitions running only against the holding of offices of profit, I am of the opinion and so advise you, that a member of the State Senate may be appointed a member of the highway commission, and that he would not be required to resign his office as such Senator in order to accept the appointment to the Highway Commission.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FEES OF SHERIFFS AND PROBATE JUDGES.

March 16, 1911.

Hon. W. F. Wilkinson,
Ass't Examiner of Public Accounts,
Centreville, Ala.

Dear Sir:—

Your letter of March 9th, submitting to me five different inquiries, received.

Your first inquiry is, "Under Section 6655, 'Fees in County Court,' can a Sheriff charge more than $1.00 'for serving warrants of arrest when bail is given,' or $2.00 'for serving warrant of arrest when bail is not given, and carrying defendant to court or to jail'—can he charge $2.00 for arrest, $1.00 for commitment, and $1.00 for releasing from jail in county court?"

Section 6655 provides, "in prosecutions before the county court, the following fees shall be allowed for services specified, and none other * * * for serving warrant of arrest when bail is given, $1.00; for serving warrant of arrest when bail is not given, and carrying defendant to court or to jail, $2.00. This section of the Code is explicit that these fees and no others shall be allowed for these services.

I am therefore of the opinion, and so advise you, that the Sheriff cannot charge more than $1.00 for serving a warrant of arrest when bail is given; nor more than $2.00 for serving a warrant of arrest when bail is not given, and carrying defendant to court or to jail; and that these are all he is entitled to charge for such services in the county court.

Your second and fourth questions will be answered together, as they involve the same point—that is, whether or not an examiner of public accounts should allow or credit a Probate Judge or Sheriff with amounts which have been passed upon by the Commissioners' Court and collected by them for several kinds of ex officio services rendered in one bill, where the account presented to the Commissioners was neither itemized nor sworn to.

Answering these questions, I beg to say that Section 3703 of the Code provides, "that no person is entitled to an allowance for ex officio fees, unless, he shall before the allowance

is made, make a sworn itemized statement of such services and present same to the Court of County Commissioners."

Section 147 of the Code provides, "that no claim against the county shall be passed upon or allowed by the Court of County Commissioners unless it is itemized and sworn to by the claimant or some person in his behalf having personal knowledge of the facts." Thus, it can be clearly seen that the statute does not authorize the allowance of a claim not itemized or sworn to. It has been the uniform holding of the courts in this State, that a county cannot be charged with any expenses that are not authorized by law. In the case of Van Epps v. Commissioners' Court of Mobile, 25 Ala. 460, the court said that "the county can only be charged with such expenses as are authorized by law, and unless there is some statute which authorized the Judge of the Circuit Court to direct the Sheriff to provide carriages to convey the grand jurors to the jail for the purpose of inspecting it, the expense thus incurred cannot be recovered out of the * * * That the Commissioners' Court has allowed such claims for many years past, serves to show, perhaps, a commendable liberality, but does not fix upon the county a liability where none otherwise exists by law." This case has often been cited and followed by the Supreme Court of Alabama. (See Naftel v. Montgomery County, 127 Ala. 567, and cases cited.)

In the case of Commissioners Court v. Moore, 53 Ala. 27, the court in discussing a charge that had been allowed by the Court of County Commissioners, which was not authorized by statute said: "In the exercise of this authority, the act of the court (of County Commissioners) is not judicial, but executive. If it audits and allows a claim not properly and legally chargeable on the county, or which it has not authority to allow, it exceeds the power with which it is intrusted, and as the act of the corporation which is *ultra vires,* is void, so is the act of the court." This case holds that the allowance of a claim by a Court of Commissioners, is a ministerial and not a judicial act, and I therefore advise you that the Court of County Commissioners had no authority to allow any claim where such claim was not itemized and sworn to by the claimant or some person in his behalf having personal knowledge of the facts.

Answering you third question, as to whether a Sheriff is entitled to pay for what he terms, "jail services," as a part of his ex officio services, where he has already drawn the full amount allowed him by law for such services, I beg to say that the law on this subject is clear, that such claims cannot exceed the maximum amount provided for by the statute, and he is not entitled to any extra ex officio fees after he has already drawn the maximum amount.

Sections 3703 and 3722 of the Code.

Your fifth question is, "Is the Sheriff entitled to pay, or fee, in any criminal case when he does not keep a Criminal Fee Book?"

Section 3705 of the Code provides that "no Clerk, Register, or Sheriff shall demand or receive a fee for any services by him performed, not justified by a charge entered in his Fee Book, and the Sheriff is required by Section 3704 to keep a Fee Book, upon which he must enter thereon, in the form of a regular account opened for the purpose, every fee charged by him for every distinct service rendered by him.

I am therefore of the opinion, and so advise you, that the Sheriff is not entitled to pay, or fees, in any criminal case in which he does not keep upon his fee book such fees, in accordance with the provision of Section 3704 of the Code.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FERTILIZER TAX TAGS—DESTROYED BY FIRE—NO AUTHORITY TO REPLACE.

March 18, 1911.

Hon. Reuben F. Kolb.
Commissioner of Agriculture & Industries,
Capitol.

Dear Sir:—

Replying to letter from your department, of March 17th, requesting to be advised as to your authority to make a refund of $465.00 to the Read Phosphate Company for fertilizer tags burned with their plant, I beg to advise you as follows:

Section 32 of the Code of Alabama, provides that "any tags left in the possession of the manufacturer, shall not be used for another season, but shall be redeemed with new tags within sixty days after the close of the department's fiscal year: * * * provided no such tags shall be redeemed unless returned to the Commissioner of Agriculture & Industries in unbroken, or original sealed packages." Thus, the statute provides for no refund of money, but merely entitles the manufacturer to an exchange of new tags to replace unused old ones.

Section 30 of the Code makes the Commissioner liable for all tage not legally accounted for, and Section 29 of the Code provides that the Commissioner, in the presence of other officers, must destroy the unused tags, and that in order to obtain a credit for these tags, he must obtain the certificate of the officers mentioned, that such tags were destroyed.

Therefore, I am of the opinion, and so advise you, that there is no authority of law for refunding money paid for fertilizer tags, under any circuumstances, and that new tags should be issued for old ones, only upon the return of the old ones in unbroken and original sealed packages. The Lefislature has not provided, so far as my investigation has shown, any method to meet the conditions as set forth in the letter from the Read Phosphate Company, accompanying your request for an opinion.

I herewith return the letter sent me relative to this matter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CORPORATIONS—CHARTER FEES OF.

March 18, 1911.

Hon. C. S. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of March 15th, inclosing letter from Judge J. P. Stiles, Probate Judge of Jefferson County, received.

Sections 1287-88-89 of the Code of 1896, provides for the payment of charter fees by domestic corporations. These charter fees were also rearranged by the act approved October 2, 1903, entitled "an act to confer and limit the powers of business corporations, and to provide for their organization and regulation," (Acts 1903, p. 310) Section 5 of said act being the particular portion of the act dealing with the question of charter fees.

The question of charter fees was again dealt with and provided for in Section 3450 of the Code of 1907, which section is as follows:

"3450. At the time the certificate is filed in the office of the Judge of Probate, the incorporators shall pay the Probate Judge, for the use of the State, $1.00 for every $1,000.00 of the proposed capital stock, but in no case less than $5.00."

The concluding sentence of Section 1287 of the Code of 1896, is, "All corporations or mutual companies which have no capital stock, shall pay a fee of $25.00." This last quoted provision of Section 1287 of the Code of 1896, is omitted from the act of October 2, 1903 above referred to, and also Section 3450 of the Code of 1907. It cannot be presumed that this omission was made unintentionally or without some definite purpose—especially in view of the character of the tax imposed by both the Codes of 1896 and 1907, which tax or fee is graded according to capital stock.

The words, "but in no case, less than $5.00" must be taken in the connection in which they are used with reference to the amount of capital stock, and cannot be taken to apply to the case of a corporation which has no capital stock.

I am therefore of the opinion, and so advise you, that a corporation which has no capital stock should not be required to pay a minimum fee of $5.00 under the provisions of Section 3450 of the Code of 1907.

I herewith return the letter of Judge Stiles.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BRIGADIER-GENERAL—APPOINTMENT OF.

March 24, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter of March 9th, enclosing a letter addressed to General Louis V. Clark by Mr. Thomas W. Martin, of date March 2d, 1911, asking me to advise you whether the term of office to which General Clark was appointed in February, 1907, had expired when the appointment of General Graves was made by Governor Comer; whether the appointment of General Graves, made by Governor Comer, was authorized by law; and whether you were authorized to make an appointment to fill the office, received.

I have carefully examined at some length the questions which you submitted to me, also the letter of Mr. Martin, and was requested by General Graves to allow him to furnish me authorities in support of his position. To his request I gladly acceded, and was furnished with the letters to him from Messrs. Lee H. Weil and Philip H. Stern, and subsequently, with another letter from Mr. Martin to General Clark and one from Messrs. Weil and Stern to General Graves.

It appears that on February 15, 1895, the Legislature of Alabama passed an act which will be found on page 879 of the Acts of 1894-95, providing for the formation of the State troops into a brigade, and the appointment of a Brigadier-General by the Governor, which should be confirmed by the Senate. Section 6 of Article 12, in the Constituiton of 1875, provided, "The Governor shall, except as otherwise provided herein, be the commander-in-chief of the militia and volunteer forces of the State, except when in the service of the United States, and shall with the advice of the Senate, appoint all general officers, whose terms of office shall be for four years." The act of February 18, 1895, above referred to, was for the purpose of carrying into effect the provisions of Section 6 of Article 12 of the Constitution of 1875, and under the provisions of that act, Governor Johnston on December 9, 1896, nominated Louis V. Clark for Brigdier-General of the State troops,

which appointment was duly confirmed by the Senate of Alabama, as will appear from the Journal of the Senate for the session of 1896-97, p. 406, and a commission was thereupon issued to General Clark as Brigadier-General, on the 14th day of December, 1896.

Thereafter, the Legislature, by an act approved February 18, 1897, provided that the Brigadier-General should be elected by the field officers by ballot, or in such other manner as may be determined upon by the Governor, in his discretion, (Acts, 1896-97, p. 1308) and by the act of February 25, 1899 (Acts 1898-99, p.136) provided that the Brigadier-General should be appointed by the Governor. These acts have come down and been codified as Section 993 of the Code of 1907, which provides for the appointment of the Brigadier-General by the Governor.

The Constitution of Alabama of 1901, Section 276, provides, "The Governor shall, with the advice and consent of the Senate, appoint all general officers, whose term of office shall be four years." It is, therefore, evident that when the Legislature created the office of Brigadier-General, which is a general office, the Constitutions, both of 1875 and of 1901, stepped in and fixed the manner of filling such office, and the term of the officer, and it was without the power of the Legislature to in any manner change or alter the method of appointment of the term of office.

After the expiration of the term of General Clark, under the appointment of Governor Johnston, which was confirmed by the Senate, Governors Samford and Jelks reappointed him to the office of Brigadier-General, but neither of these appointments were concurred in by the Senate, and were, therefore not valid appointments, and conferred no title to the office upon General Clark.

State ex rel Little v. Foster, 130 Ala. 154.

On February 28, 1907, Governor Comer submitted to the Senate the appointment of General Clark as Brigadier-General, in the following terms: "Louis V. Clark for Brigadier-General of the Alabama National Guard, for the term beginning April 17, 1905," which appointment was ratified and confirmed by the Senate on February 28, 1907, Senate Journal, Vol. 2 p. 1362. On January 11, 1911, Governor Comer

sent to the Senate the nomination of General Bibb Graves as Brigadier-General of the Alabama National Guard, which nomination was confirmed by the Senate, and thereupon General Graves was commissioned and entered upon the discharge of the duties of his office.

This, in brief, is the history of the appointments to this office.

It cannot be contended, and indeed, it is conceded by all parties, that the appointments of General Clark by Governors Jelks and Samford without the advice and consent of the Senate, were incomplete, and that his right to the office under these appointments never became vested, and that the office was in law vacant and remained so until the appointment by Governor Comer on February 28, 1907, which was ratified and confirmed by the Senate on that date.

The contention of Mr. Martin on behalf of General Clark, is that the appointment of Governor Comer, last mentioned, and the confirmation thereof by the Senate, of necessity vested the right to the office of Brigadier-General in General Clark for the constitutional term of four years, and that, therefore, at the time of the appointment of General Graves by Governor Comer, on January 11, last, there was no vacancy, and that no vacancy would occur during the term of Governor Comer, and that, therefore, there could be no appointment by him. The contention of General Graves is, that the appointment by Governor Comer of General Clark, on February 28, 1907, was either valid in the terms and for the time specified in his message submitting the appointment to the Senate for its advice and consent, or that if not so valid according to the term prescribed by the message of appointment, that the appointment and confirmation, being a joint act, could not be valid in part and void in part, and that, therefore, if void as to the limitation of the term to a term beginning April 17, 1905, that it was void in its entirety, and conferred no vested right upon General Clark, to the office, and that in either event, there was a vacancy in the office at the time of his appointment by Governor Comer, to which Governor Comer had the right to appoint, and that his appointment, having been confirmed by the Senate, his title to the office vested on January 11, 1911, and that he is entitled to hold for the constitutional term of four years from that date.

In State ex rel Little v. Foster, 130 Ala., 154, the Supreme Court held, quoting from and re-affirming Fox v. McDonald 101 Ala. 71, that the Governor had no prerogative power of appointment, but that his power of appointment was derivative and must find express authority either in the Constitution or in the laws, and that therefore, the appointment by the Governor of a successor of a trustee of the University of Alabama, whose term had expired on the 1st day of March, 1900, by the Governor on the 14th day of January, 1900, without the advice and consent of the Senate, the Legislature not being in session, was void, and that such appointee had no title to the office by reason of the appointment by the Governor without the advice and consent of the Senate, and holds that the provision of the Constitution prescribing that the trustee of the University should be appointed by the Governor for the term of six years, by and with the advice of the Senate, was self-executing. "It is plain and unambiguous, and where this is the case, the framers of the Constitution 'should be intended to mean what they have plainly epressed, and consequently no room is left for construction. Possible or even probable meanings, when one is plainly declared in the instrument itself, the courts are not at liberty to search for elsewhere'. Cooley's Const. Lin. 59, 70. The framers of the Constitution 'must be understood to have intended what they said. It is theirs to command ours to obey. When their language is plain, no discretion is left us. We have no right to stray into the mazes of conjecture, or to search for imaginary purposes.' The State v. McGough, 118 Ala. 166. If we may be pardoned for repetition, the language is, 'said trustees shall be appointed,' etc., not the first trustees, but all who may be appointed to fill succeeding terms. Obviously, this is so, for the reason that the framers of the Constitution were manifestly undertaking to provide for a stable and permanent organization for the management and control of the University. If the management of this institution of learning was of so great importance as to attract the attention of the framers of the Constitution, and to impress them with the necessity of incorporating in the organic law of the State, the provision establishing the Board of Trustees, prescribing their mode of appointment, etc., it would require the wildest flight of imagination to conjure the construction, that they only intended to

deal with the tenure of the first incumbents and not of those who may become members of succeeding boards. It could be said with as much plausibility that the requirements of the Constitution that certain State officers should be elected by the people were functus officio after the first incumbents were elected, and that after the expiration of their terms, the General Assembly might prescribe any other mode of filling them. The conclusion is irresistible, that the clause of the Constitution applies to all appointments made to fill vacancies created at the expiration of a term, and that it is mandatory, prescriptive and exclusive. Any other construction would put it in the power of those whose duty it is to execute this clause of the Constitution, not only to evade it, but to practically destroy it, and to render uncertain and unstable our written Constitution."

In People v. Roseborough, 14 Calif. 180, the Supreme Court of California held that where an act organizing a county provided for the election of a county judge and provided that his office should be for two years, and called an election by which he was elected for the term of two years as prescribed in the act, while the Constitution prescribed that the term of such judge should be four years, that he held for four years, and that the attempted limitation by the act of the term to two years, was void. This case is cited approvingly in Throop on Public Officers, Section 311, where the following language is used: "Where the Constitution fixes the term of an office for four years, an act of the Legislature providing for an election to fill the office, and limiting the term of the officer to be elected to two years, is void as to limitation, but constitutional and valid as to the residue, and the person so elected holds for four years."

In Hale v. Evans, 12 Kansas, 562, an opinion by Mr. Justice Brewer of that court, afterwards for many years a learned justice of the Supreme Court of the United States, says: "The form of the certificate to Evans, while it may be prima facie evidence, is not conclusive. The facts which show the duration of the term may always be shown, and when shown, control."

There are a number of authorities which hold that neither the Legislature nor the appointing power can lengthen or shorten a constitutional term, and a review of them here would

unnecessarily prolong this opinion. I am therefore of the opinion, and so advise you, that the attempt by Governor Comer, in his message of February 28, 1907, transmitting the appointment of General Clark to the Senate for its advice and consent, to so limit the term of General Clark as to make it a term of four years from the 17th of April, 1905, was void, and that the Senate, when it acted upon and confirmed the appointment, was bound in law to have confirmed, and the Governor was bound in law to have appointed, for the full term appointed by the Constitution, to-wit, the term of four years.

There is some conflict among the authorities as to when the term of an officer begins—whether from the date of his confirmation, or from the date of his commission, but I believe the better rule to be—and escepially in view of the constitutional provisions in reference to the general offices of the militia—that the term begins from the date of the confirmation by the Senate.

I am, therefore, of the opinion, and so advise you, that by reason of the action of Governor Comer and of the Senate on the 28th day of February, 1907, General Clark became the Brigadier-General of the Alabama National Guard, for the term of four years from the 28th day of Februaary, 1907, and that this term of office therefore, expired on the 28th day of February, 1911.

Referring to the question of your right to appoint a successor to General Clark, as Brigadier-General, notwithstanding the appointment, or attempted appointment of General Graves, on January 11th, last, this question, it seems to me has been previously disposed of by me in my opinion to you of February 11th, upon the appointments by Governor Comer of Jury commissions, and that Governor Comer was without authority to nominate to the Senate a Brigadier-General, and that the office is, therefore, now vacant, and that you may now make an appointment to fill the office.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

UNION CENTRAL RELIEF ASSOCIATION—A MUTUAL AID INSURANCE COMPANY.

March 25, 1911.

Hon. C. B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

I acknowledge receipt of your letter of the 23rd inst., desiring to be advised as to whether or not the Union Central Relief Association, operating as a Mutual Aid Company in Birmingham, comes under the direction of your department, and if so, is it to be under the control of your department, just as are other Mutual Aid Insurance companies.

Answering your inquiry, I beg to advise you as follows:

The act approved February 28, 1901 (Acts 1901, p. 1531) incorporates this association. Section 3 of the Act declares that the purposes of the corporation are exclusively charitable and eleemosynary. Sec. 12 of the Act exempts from taxation and licenses the corporation by reason of the fact that it is a corporation of an eleemosynary and charitable character.

The general law of the State provides that Mutual Aid Associations are required to pay certain licenses and taxes, and that they are under the control of the Insurance Department of the State.

Section 3564 of the Code.

This Section also provides that corporations or associations whether incorporated under the laws of this State, or any other State or county, that issue certificates or policies, or agree with their members to render any aid or benefit upon the sickness or death, etc., of any of the members, are Mutual Aid, Benefit, or Industrial Companies or Associations.

Section 7 of the act creating this corporation provides the powers and duties of the corporation and the principal purpose for which it was organized, being to provide a benefit for its members in case of sickness, and to provide funeral benefits in the case of death of a member, this Company comes clearly within the general law of the State. It is almost universally

accepted that Companies doing this class of business are not charitable associations, but are to be considered Mutual Aid Insurance Companies.

Morning Star Lodge, I. O. O. F. v. Hayslip, 23 Ohio State, 144-46;
State Council of Catholic Knights v. Board of Revenue, 189 Ill. 441;
Y. M. P. T. B. Association v. City of Fall River, 160 Mass. 409.

All of the above cases hold that associations that collect regular dues from its members and distribute sick or funeral benefits to its members are not charitable associations, but are to be considered and taxed as Mutual Aid Societies, and the case last above cites holds that "such societies are regarded in the law as Mutual Insurance Societies or Mutual Benefit Societies * * * * and Societies whose principal income is derived from a fixed, regular and compulsory contribution from its members, which is to constitute a fund to be used exclusively for their benefit, cannot be held to be either a Benevolent or a Charitable Society within the meaning of the statute (exempting charitable and benevolent societies from taxation)."

It is not, nor can it be, contended, that this association is not engaged in the business of a Mutual Aid Association, save for the provisions of its charter, which attempt to exempt it from the provisions of these laws, by declaring that the association is of a character, which the act itself and the practice of the corporation, show it is not. Neither is it of the class of societies exempted by the general law.

Section 217 of the Constitution provides "that the property of private corporations, associations and individuals in this State shall forever be taxed at the same rate, provided this section shall not apply to institutions devoted exclusively to religious, educational or charitable purposes." The legislature cannot then exempt one corporation of this class to the exclusion of others; all must come within the general law. And as has been shown above, this association is not one devoted exclusively to religious, educational or charitable purposes, or of the class exempted by the general laws.

I am therefore of the opinion, and so advise you, that this association comes under the direction and control of your department, as do other Mutual Aid Insurance Companies.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE DEPOSITARIES—EXPIRATION OF DESIGNATION OF.

March 25, 1911.

Hon. John Purifoy,
State Treasurer,
Capitol.

Dear Sir:—

Your letter of March 23rd, in reference to the designation of depositaries for State funds, received.

I am of the opinion, and so advise you, that when the period of three years from the date of the designation of a banks as a State depositary has expired, there should be a new application, and a new designation as provided by Section 642 of the Code. Of course, however, a new deposit of bonds need not be called for, but the bonds already deposited may be retained under the new designation.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SOUTHERN STATES FIRE AND CASUALTY COMPANY—ANNULMENT OF CHARTER OF.

March 30, 1911.

Hon. C. B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

Your letter with reference to the amendment to the Charter of the Southern States Fire & Casualty Company of Birm-

ingham, Ala., together with the letter of the examiners of said Company, to you, requesting my advice as to two amendments to the Charter of said Company, received.

At the meeting of the Company held on January 26, 1910, it appears that two things were done. The name of the corporation was changed, and the capital stock was increased. The change of the name of the Company is governed by Section 3462 of the Code of 1907, and the increase of capital stock is governed by the provisions of Section 3480 of the Code of 1907. For the purpose of changing the amount of capital stock, it is necessary that it be done either at a regular meeting or at a special meeting, of which 30 days' notice shall be given, as provided by Section 3478 of the Code. However, this notice is not required to be given under the provision of Section 3462, in reference to a change of the name. It appears from the report of the examiners, that notice was not given in accordance with the provisions of Section 3478 of the Code, but that all the shares of capital stock issued and outstanding were present, either in person or by proxy at such meeting, and waived notice. The fact that there were three persons who had subscribed to the stock of the Company, but had not received their certificates, who were not present, cannot affect the validity of this meeting, and all the stock issued and outstanding being represented, I am of the opinion, and so advise you, that the meeting was legal and they had the right to amend their charter as they did at that meeting.

The other amendment made at the meeting on December 15, 1910, was made under the provisions of Section 3462 of the Code and the meeting having been called in compliance with the by-laws of the Company, and the provisions of Section 3478 as to 30 days' notice not applying to the class of amendments mentioned in said section, I am of the opinion that the action of that meeting was valid, and so advise you.

Yours very truly,

ROBERT C. BRICKELL,
Attorney General.

WIDOW'S PENSION—USE OF FOR BURIAL PURPOSES.

April 3, 1911.

Hon. C. B. Smith,
Auditor,
Capitol.

Dear Sir:—

Your letter of March 31st, in reference to the payment by the Probate Judge of the burial expenses and doctor's bills of the widows of pensioners who are drawing pensions at the time of their death as such widows, received.

Section 2026 of the Code makes provision only for the payment of the burial expenses and expenses of last illness of the pensioner, himself. No provision is made for the payment of such expenses of the widow, by that section or by any other provision of law, which I have been able to find.

I am therefore of the opinion and so advise you, that the Judge of Probate has no authority to pay the burial expenses or the doctor's bill for the last illness of the widow of the deceased pensioner.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHELL FISH CONVENTION—PAYMENT OF EXPENSES OF OYSTER COMMISSION TO.

April 7, 1911.

Hon. R. F. Kolb,
Commissioner of Agriculture & Industries,
Capitol.

Dear Sir:—

Your letter of this date in reference to your authority to visit the Shell Fish Convention, and to pay the expenses of two experts to attend said convention to assist you, received.

I have examined the sections of the Code, to which you refer, and under them I am of the opinion that you have no authority to take any expert with you and pay their expenses. As to whether you may attend the same yourself and charge

your expenses to the fund provided by Section 52 of the Code, I would advise you that in my opinion, if you believe such attendance on your part to be a proper method of assisting the work of your department, that you would have authority to attend the convention referred to, and to charge the same to Expenses to be paid out of the fund provided in Section 52 of the Code.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE PRISON INSPECTOR—STENOGRAPHER FOR.

April 10, 1911.

Hon. C. B. Smith ,
State Auditor,
Capitol.

Dear Sir:—

Your letter submitting to me the communication of Dr. W. H. Oates, State Prison Inspector, inquiring of you whether or not he is entitled to a stenographer for his department, to be paid for by the State under the provisions of Senate Bill 238, approved April 8, 1911, received.

Section 3 of said bill provides "that the inspector shall appoint a chief clerk, who must be a stenographer, and two deputy inspectors—the salary of the chief clerk shall be Eighteen Hundred Dollars per annum; the salary of each deputy inspector shall be Fifteen Hundred Dollars per annum; and the salary of the stenographer shall be Nine Hundred Dollars per annum, all payable monthly out of the State Treasury as the salaries of the clerks in other departments are paid. The inspector shall also have the power to supervise, control, direct and govern the work and duties of the chief clerk, the deputy inspectors and the stenographer, and to discharge them or any of them."

Section 4 further provides that the inspector, chief clerk, deputy inspector and the stenographer, while traveling in the performance of their duties, shall be re-imbursed, etc., and

Section 4 further provides that the inspector, chief clerk, deputy inspector and stenographer above provided for," etc.

We have here, then a case in which the salary of the stenographer is fixed, the power is conferred on the inspector to supervise, control, direct and govern the work and duties of the stenographer, provision is made for the payment of the traveling expenses of the stenographer, and provision is made that the stenographer may pass free on all railroads in this State. No power in express language is conferred to appoint a stenographer.

The question thus presented is, where there is no express power of appointment, is the wording of the act such as to carry with it and imply power of appointment?

Where the act is free from any ambiguity, then of course, we can look only to the act itself to determine its intent and meaning, but where there is such ambiguity in the act itself, it is permissible to look to the Journals of the Legislature to determine what was the Legislative intent. There is such ambiguity in the act in question, and a reference to the Journals of the House of Representatives will show that Section 3 of the Act, as passed by the Senate, provided "that the inspector shall appoint a chief clerk, a stenographer, and two deputy inspectors." This was amended by the Committee to which the bill was referred in the House, by striking out the words, "a stenographer" before the words "and two deputy inspectors," and after the word "clerk," and inserting in lieu thereof, "who must be a stenographer," making the Act read as at present.

This amendment by the House Committee, clearly shows that it was the intention of the Legislature to strike from the bill the provision for a stenographer, and to require the chief clerk to perform the duties of a stenographer.

I am therefore of the opinion, and so advise you, that the State Prison Inspector is without authority to employ a stenographer to be paid for by the State under the provisions of the act above referred to.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY FAIR—AUTHORITY OF CORPORATION TO HOLD.

April 12, 1911.

Hon. Reuben F. Kolb,
Commissioner of Agriculture and Industries,
Capitol.

Dear Sir:—

Your letter of the 11th inst., inclosing two letters from Mr. G. H. Miller, Secretary of the Cullman County Fair and Exhibit Association, and also a letter from you to him, received.

Your inquiry is with reference to the authority of a corporation organized under the act approved August 5, 1909, entitled "An Act for the incorporation of mutual, co-operative societies and association for farming and trucking purposes, and for the exemption of the same from all corporation taxes and licenses," to hold county fairs.

I have examined the Act to which you refer, and the powers of such corporation are expressly set out in Section 5 of said Act, to which I direct your attention.

There is nothing in said Act or the Section conferring power upon the corporation organized thereunder, which either expressly or by implication, confers the power to hold fairs, or any other power from which such power could arise as an incident thereto.

I am therefore of the opinion, and so advise you, that the corporation organized under the provisions of the Act above referred to, is without authority to hold county fairs.

I return you herewith your letters from Mr. Miller, and yours to him.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE HIGHWAY COMMISSION—EXPENSES OF.

April 12, 1911.

Hon. Robert E. Spragins,
Chairman State Highway Commission,
Montgomery, Ala.

Dear Sir:—

Your letter requesting me to advise the State Highway Commission upon certain questions, received.

I understand from your letter that the question of the preparation of blank forms is not now urgent, so I will defer the preparation of such forms until a later time when I will prepare them and transmit them to you.

Your second question is to the proper method of paying the salary of the State Highway Engineer, stenographer, and assistants—if any. As to this matter, I beg to advise you that the salary of the State Highway Engineer having been fixed by the commission, it should be paid monthly by the warrant of the Auditor, drawn upon the State Treasurer, the commission having first certified to the Auditor and to the Treasurer that they have fixed a certain sum as the salary of the State Highway Engineer, and have appointed a certain person named therein as such engineer; and also that the salary of his stenographer and assistants should be paid in the same manner as that of the State Highway Engineer, by warrants drawn by the Auditor and approved by the Engineer, authority for that purpose having been given him by your commission, copy of such order of the commission conferring such authority having been first filed with the Auditor and Treasurer as above stated.

Your third question deals with the furnishing of your office and with the payment of your supplies and printing. Under the provisions of the bill, you will be supplied with an office in the State Capitol, by the Governor, and the necessary furnishings of said office should be attended to in connection with the supplying of the office to you. This would be entirely under the direction and control of the Governor. Your supplies and printing must be paid for out of the appropriation made by Section 5 of the Act creating said Highway Commission.

Replying to your 4th question, I beg to advise you that the proper method of paying the traveling expenses of the Commission, its engineer, assistants, etc., is out of the fund provided by Section 5 of the bill, upon the affidavit of the person by whom the expense is incurred, to be approved, in such manner as your Commission may direct.

Your sixth question, I will reserve for further consideration, except that I am of the opinion that the Commission can authorize the certificates to the Auditor to be drawn in its name by its secretary, a copy of the resolutions of the Commission authorizing such action by its secretary, to be first filed with the State Auditor and the State Treasurer.

Your 7th question, I will reserve for further consideration.

In answer to your 8th question, I beg to advise you that the Road Commission referred to in Section 11 of the Bill, can only mean the State Highway Commission. As to the other portion of the 8th question, marked "B," I will reserve this matter for further consideration.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

THE JUVENILE COURT OF JEFFERSON COUNTY—A COURT OF RECORD.

April 25, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter requesting me to advise you whether the court created by Senate Bill 456, "The Juvenile Court of Jefferson County, Alabama," is a court of record, received.

Upon an examination of the bill I find that jurisdiction is conferred by Section 2, upon the court, and that the court is given concurrent jurisdiction of the chancery and probate courts to hear and determine and adjudicate cases relating to children who come within the provisions of the act.

Section 6 provides for the filing of the petition of the court, and that the court or judge may * * * cause a summons to be issued, signed by the judge or clerk of said court.

Again, in Section 8, the court or judge may do certain things.

Section 9 provides that "the court shall proceed to hear and determine the case," and in Section 9 it is provided further that "said court shall have power, upon the hearing of any case involving any child, to exclude the general public from the room where said hearing is held, but it shall admit thereto such persons as may have a direct interest in the case; that the records of all such cases may be held from indiscriminate public inspection, but that such records shall be at all reasonable times open to inspection by such child, its parents or guardian, its attorney or the attorneys of its parents or guardian.

In Section 10, it is provided "All information, depositions, warrants and other process in the hands of such magistrate or court," referring to a magistrate or court, issuing warrants for the arrest of children "shall be by him forthwith transmitted to said juvenile court of Jefferson County, and shall become part of its records."

By Section 11, an appeal from a final order or judgment of the court is allowed.

Running through the bill in its entirety, we find distinctions made between the judge and the court.

Mr. Blackstone, in his commentaries, speaking of courts generally, and discussing the question as to when a court is a court of record, and when not, says: "A court of record is that where the acts and judicial proceedings are enrolled in parchment for a perpetual memorial and testimony, which rolls are called records of the court, and are of such high and supereminent authority that their truth is not to be called in question."

3rd Blackstone, 24.

A full discussion of the question of courts of record is found in 2 Words & Phrases, p. 1686, which shows that the test is, whether a record of its proceedings is kept—if so, it is a court of record.

From the excerpts from the bill above referred to, it is plain that this court is required to keep its records, and while they are not enrolled upon parchment as prescribed by Blackstone—no records are so kept in this day, in this country, they are preserved in a manner more fitting to modern circumstances.

I am therefore of the opinion, and so advise you, that this court, being a court which has a judge and a clerk, and which is required to keep a record of its proceedings, is a court of record.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CONFEDERATE VETERANS—ADMISSION OF WIFE TO SOLDIERS' HOME—APPROPRIATION FOR INMATES OF HOME.

April 26, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

I have the letter of Commandant J. M. Simpson, of the Confederate Soldiers' Home, which was referred by you to me with the request that I give an opinion upon the matter about which he inquires, and have given the same careful consideration.

His first question is. "Can a Confederate veteran who is himself eligible, bring with him to the home, his wife as an inmate, whether she be old or young?" The provision of Section 2044 of the Code upon this subject is: "Only indigent Confederate veterans and their wives when accompanied by their husbands * * * * shall be eligible as beneficiaries under this article." It is therefore plain that a veteran who is eligible may bring with him to the home as an inmate, his wife, and that the age of the wife can make no difference and has no effect upon this question.

His second question is, "Can a Confederate veteran, already an inmate of the home, marry and bring his wife into the home as an inmate?" This question is covered by the provisions of Section 2044 above quoted, and I direct special attention to the verbiage of the Section "and their wives when accompanied by their husbands." I think this clearly refers to those who are their wives at the time of their admission to the home as inmates, and I do not believe it would authorize the admission to the home of an inmate where the marriage was contracted subsequent to the admission of the husband as an inmate, it being in my opinion, clearly the purpose of the statute that the status at the time of admission should govern in this particular.

His next question is, "Is the total amount to be drawn at the beginning of each quarter on the order of the executive committee, to be paid to the individual inmates in advance, for the entire quarter, or paid to them as long as they are inmates?" Section 2047 of the Code as amended by the legislature at its session just closed, provides "for the payment to the inmates of the home, the sum of two dollars per month, each, so long as they are inmates, payable at the beginning of each quarter, on the order of the executive committees of the Board of Control." The language of the statute is clear that this amount shall be payable at the beginning of the new quarter, and it contemplates the payment of the whole in a lump sum, and not in separate payments month by month.

I am therefore of the opinion that the whole amount drawn for the inmate of the quarter, should be paid over to him at the beginning of the quarter, although if such person should cease to be an inmate before the end of the quarter he would have drawn more money than it was by law contemplated that he should draw. The commandant would have no right because of such possibility, to withhold payment from him of the entire sum at the time prescribed by the statute, to-wit, the beginning of the quarter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PARKS BILL—WHEN EFFECTIVE.

April 27, 1911.

Hon. Cyrus B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

Yours of the 26th inst. inclosing letter from Hon. J. P. Stiles, Judge of Probate of Jefferson County, received.

The inquiry made by Judge Stiles and about which you request me to inform you, is, I understand, "When do the acts of the last legislature, the one known as the Parks Act, entitled an act 'To submit to the qualified electors of each of the counties of this State the question of whether or not the manufacture and sale of spirituous, vinous or malt liquors shall be legalized therein; and whether such liquors shall be sold by dispensaries or by private dealers under a license,' and the Smith Bill, being the Act approved April 6, 1911, regulating the sale of liquors where authorized both by dealers under private license and by dispensaries, become effective?"

The provision of the bill first referred to, the Parks Bill, as to when it shall go into effect, is found in Section 17 of the bill, which is as follows: "That the provisions of this act shall not become effective until there shall be hereafter provided by law, regulations and restrictions for the conduct of dispensaries and for the issuance of licenses to private dealers for the manufacture or sale of said liquors."

The Smith Bill, above referred to, provided by law the regulations and restrictions specified in Section 17 of the Parks Bill. The Smith Bill above pointed out became a law on April 6th, last, therefore, upon that day, the regulations and restrictions as provided in Section 17 of the Parks Bill, became law, and the Parks Bill therefore operative.

There are penal provisions attached to the bill known as the Smith Bill, which under the provisions of Section 7805, of the Code would postpone the taking effect of the Smith Bill until 60 days from the date of its approval, but the provisions of the Parks Bill, stating specifically that it shall go into effect when the regulations are provided, must govern as to when it does take effect, and the regulations having been

provided by law, approved April 6th, the Parks Bill thereupon became effective, although the Smith Bill providing the regulations, does not become effective until 60 days after its approval.

I herewith return you the letter of Judge Stiles.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LIQUOR NUISANCE CASES—FEES OF SOLICITOR IN.

April 27, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Referring to the letter signed by Samuel Blackwell, Solicitor, and D. C. Almon, Solicitor, which was handed to me for my opinion, and which relates to the question of Solicitors' Fees in injunction cases under the Fuller Bill, I beg to say that I have made an investigation of the questions presented in this letter, and beg to advise you that I find no provision for the taxing of Solicitors' Fees in proceedings in equity under this statute. The statute makes provision for costs incurred in such cases, and provides for the manner of taxing these costs against a defendant, and further provides that if not so taxed by the court against a defendant, that such costs should be paid as in criminal prosecutions in which the State fails. This provision is found in Section 20½ of the Act, on p. 73, (Acts 1909), but this Section does not in any way refer to a Solicitor's fee, and I am of the opinion that without specific authority from the act, no such fee can attach in this kind of a proceeding.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CONVICTS—ATTORNEY GENERAL NO RIGHT TO SUE FOR DEATH OF.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

I have examined the question raised in the letter from Dr. E. Stagg Whitin, General Secretary of the National Committee on Prison Labor, in his letter to you of April 15th, 1911, in reference to the disaster at the Banner Mine, which you refer to me with the request for an opinion thereon.

I can find no authority of law by which the Attorney General would be authorized to bring suit on behalf of the personal representatives or heirs at law of those who lost their lives in this disaster. The right of action, if any, in each case, belongs to the personal representatives or heirs at law, and it is for them to determine whether any action should be brought or not, as this is a matter in which I can find no warrant of law for the State to interfere.

I return you herewith the letter of Dr. Whitin.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

HIGHWAY COMMISSION—APPROPRIATIONS—CONTROL OF ROADS.

May 1, 1911.

Hon. Robt. E. Spragins,
Chairman State Highway Commission,
Montgomery, Ala.

Dear Sir:—

In my letter to you of April 12th, in reply to your letter of April 8th, I stated there were certain matters which I would reserve for further consideration, and I am informed that your commission will meet again today, and so presume you desire the other questions answered in time for your meeting this afternoon.

The unanswered portion of your sixth question is "to advise us as to the proper method of appropriating and paying to the several counties of the State, moneys for which they apply and to which they are entitled under the provisions of the act." In reply I beg to advise you that the method of appropriating and paying this money to the several counties, is a matter of detail which the legislature intended to be worked out by your commission.

In answer to your seventh question, I beg to advise you whenever a competent engineer is furnished in any county under the provision of Section 9 of the act, the method of his pay, and by whom the expense should be borne, is a matter over which your commission has full authority, and that he should be paid in such manner as your commission may by its rules and regulations determine.

Answering that portion of your question No. 8, designated as "B," I beg to advise you that only that portion of the road which is constructed or improved under the provisions of the act, comes under the jurisdiction and control of the State Highway Commission as to its future maintenance and repair.

All the forms about which you inquire, can, I believe, be found in the offices of the Secretary of State and State Auditor but should the necessity for any other or different forms arise, I will prepare them whenever desired.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

JEFFERSON COUNTY COURT OF COMMON PLEAS—NOT A COURT OF RECORD.

Hon. Emmet O'Neal, May 2, 1911.
Governor,
Capitol.

Dear Sir:—

I have examined the act of the legislature approved April 20, 1911, being Senate Bill No. 444, To establish a court of common pleas in precincts 21 and 37 of Jefferson County, Ala., lying within or partly within the City of Birmingham," as requested in your letter of May 1st.

The jurisdiction of this court is the jurisdiction formerly exercised by justices of the peace, and this court is established in lieu of justices' court, under the provisions of Section 168 of the Constitution.

Our Supreme Court is committed to the position that justices' courts are not courts of record. I am therefore of the opinion, and so advise you, that this court being simply in lieu of justices' court cannot be considered a court of record, and that therefore the judge of such court has not the authority to order baliffs to act in said court.

In this connection, I desire also to call your attention to the provisions of the act providing how the service of the Sheriff and constable may be obtained and their duties in connection with the court.

I return you herewith the letter of Sheriff McAdory, together with the copy of the bill attached thereto.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

MONTHLY INSTALLMENTS MEAN TWELVE REGULAR CALENDAR MONTHS.

May 4, 1911.

Hon. H. Y. Brooke,
Examiner of Public Accounts,
Birmingham, Ala.

Dear Sir:—

Your letter of this date, inquiring of me whether, where it is provided by law that money shall be "paid in monthly installments," the law contemplates the payments to be made in twelve regular installments according to the calander month or whether such payment could be made weekly or semi-weekly on account, received.

I am of the opinion, and so advise you that such payments can only be made twelve times a year, that is—monthly, according to the calendar month, and that there would be no authority of law to make the payments weekly, semi-weekly or for any other length of time short of the month, except where the employment began after the 1st and before the

31st of the month, or where a person should cease to be the officer or employee, in which cases it may be paid for the period covered by the service.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SOLICITOR'S FEES—PISTOL CASES.

May 5, 1911.

Hon. W. F. Wilkinson,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter of April 29th, inquiring whether the act entitled an act to regulate the right to carry pistols in this State," approved August 26, 1909, Acts 1909, p. 258, changes the Solicitor's fee provided by Section 6421 of the Code of 1907, received.

The act above referred to, by Section 6, repealed all laws and parts of laws in conflict with the provisions of the act, but an examination of Section 6421 of the Code shows that the act above referred to cannot repeal that Section entirely, for the act refers only to pistols, while the Section of the Code also includes bowie knives, knives or instruments of like kind, and other firearms than pistols, and air guns.

However, the act provides a penalty for the carrying of concealed pistols, which is different from the penalty provided by the Code, and makes other regulations as to the carrying of pistols, and its necessary effect, therefore, is to repeal that portion of Section 6421 of the Code dealing with pistols.

I am therefore of the opinion and so advise you that a person convicted of a violation of said act would be liable only for a Solocitor's fee of Ten Dollars, as a misdemeanor not otherwise provided for, as he could not be convicted under Section 6421 of the Code, which provides for the fee of Thirty Dollars.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE TAX COMMISSIONERS—NOT ENTITLED TO EXPENSES WHILE IN MONTGOMERY.

May 5, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter of May 1st, inclosing the expense account of the State Tax Commissioners, incurred while in Montgomery attending to the business of the commission at the Capitol, and requesting me to advise you whether or not such an expense could be paid out of the State Treasury under authority of Section 2220 of the Code of 1907, received.

Section 2220 provides for the payment of the actual, necessary expenses while traveling or acting on the business of the commission, of the commissioners, the secretary of the commission, their stenographers, engineers, experts and assistants. Section 2219 requires that the commission shall have and maintain its office at the State Capitol and shall be provided with necessary office supplies and other things, and that all its expenses so incurred shall be paid out of the State Treasury.

Construing these two sections together, I am of the opinion that it is not intended that the commissioners shall be paid their expenses while at the place fixed by law where they are required to have, maintain and keep an office, but only when traveling, or attending to the business of the commission at some other place or point.

I herewith return you the accounts sent me.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

RIGHTS OF INJURED PARTY TO FINES IN CERTAIN CRIMINAL CASES.

May 5, 1911.

Hon. Chas. E. McCall,
Examiner of Public Accounts,
Montgomery, Ala.

Dear Sir:—

I am in receipt of your favor of the 13th inst., asking me to advise you (1) whether or not an injured party who is allowed by law half the fine imposed on a defendant in a criminal prosecution for failing to perform a contract with his surety who confessed judgment, has a valid case against the county for half the fine in the event the defendant fails to pay the fine imposed; and (2) if the claim is not valid, shall the county treasurer be held responsible for his act in paying the claim on a warrant issued by order of the board of revenue.

In reply to your favor, I beg to advise that Section 6848 of the Code provides that from the fine imposed on a defendant, for a violation of a contract entered into within a surety confessing judgment, the damages, *when collected,* must be paid to the injured party by the officer collecting them.

Section 7634 of the Code provides that, "If the fine and costs are not paid * * * * the prisoner must either be imprisoned in county jail, or at the discretion of the court, sentenced to hard labor for the county," etc. A judgment rendered against a defendant for a fine, any part of which goes to the injured party, is to be collected as all other fines are collected. "The division of the money comes afterwards,"

Bass v. State, 63 Ala. 108, 111.

I am therefore of the opinion, that upon non-payment of a fine, and upon his being sentenced to hard labor in lieu thereof, the injured party lost his right to his assessed damages, and the board of revenue issued its warrant to him without authority of law.

Answering your inquiry as to the liability of the County Treasurer for paying the warrant above referred to, I find that on November 10, 1906, Hon. Massey Wilson, then Attorney General, in an opinion to Hon. John T. Gorman, Examiner of Public Accounts, dealt with the question here presented, as

follows: "Sub-division 1, of Section 1429 of the Code, makes it the duty of the County Treasurer 'to receive and keep the money of the county and disburse the same according to law.' If he makes illegal payment, although the same has been authorized by the county commissioners, he is liable for making such payment."

The language of Sub-division 1 of Section 211 of the Code of 1907 is identical with the language of sub-division 1 of Section 1429 of the Code of 1896, quoted by Attorney General Wilson, and his opinion, therefore, covers directly the point involved, and I therefore advise you that the county treasurer is chargeable with the amount paid out upon the warrant above referred to.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

HIRES CONDENSED MILK—LABEL OF.

May 6, 1911.

Dr. W. H. Sanders,
State Health Officer,
Capitol.

Dear Sir:—

Yours inclosing a label which appears on cans of condensed milk prepared by Hires Condensed Milk Company, and inquiring whether the label is a proper one under our laws regulating the sale of foods, received.

An examination of the label shows that in one place, in the largest letters used, it is labelled "Skimmed Milk." In three other places, in the next largest type used, the words "skimmed milk" again appear, and in the fourth place in the smallest type used, it is stated that it can be used for all purposes for which "fresh, unskimmed milk" is used.

You call my attention to the statement on the label, "is fresh, pure cow's milk from which the butter oil has been mechanically removed and part of the moisture evaporated in vacuum." The statement last quoted might be misleading if it were not for the other statements, but taken in connection with the other statements, and with the fact that the words

quoted appear immediately under the words "Skimmed Milk," and are in smaller type than the words "Skimmed Milk," I am of the opinion, and so advise you, that the label does not constitute a violation of any law, and cannot be considered as misleading.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SALARY OF BANK EXAMINER.

May 10, 1911.

Hon. C. B. Smith,
Auditor,
Capitol.

Dear Sir:—

Your letter of May 8th, requesting my opinion as to who is entitled to the salary for the 1st day of April, 1911—the former Bank Examiner, Hon. T. J. Rutledge, or present Superintendent of Banks, Hon. A. E. Walker, received.

The act known as the Banking Act, as approved on March 2, 1911, by its terms did not become operative until thirty days after its approval. Excluding the day of its approval, as provided by Section 11 of the Code, we find that April 1st, was the 30th day, therefore the act did not become effective until the second day of April, 1911.

I am therefore of the opinion, and so advise you, that Hon. T. J. Rutledge, former Bank Examiner, was entitled to the salary for that day, and not Hon. A. E. Walker, Supt. of Banks.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

GUARD FEE—CRIMINAL CASES.

May 6, 1911.

Hon. James G. Oakley,
Pres. Convict Board,
Montgomery, Ala.

Dear Sir.—

Your letter of May 2nd, in reference to the payment by your department of the guard fee of two dollars in criminal cases where a conviction has been had and the defendnat sentenced to the penitentiary, received.

The legislature by an act approved February 28th, 1911, amended Section 6638 of the Code so as to provide for a guard fee of two dollars, but Section 6572 of the Code provides what items of cost shall be paid out of the convict fund, and no provision is there made for the payment of this guard fee of two dollars.

I am therefore of the opinion and so advise you, that you have no authority to pay the guard fee of two dollars.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PARKS BILL—PETITION FOR ELECTION UNDER.

May 13th, 1911.

Hon. C. B. Smith,
Auditor,
State Capitol.

Dear Sir:—

Your letter of May 12th enclosing a letter from Hon. James F. Koonce, Judge of Probate of Lauderdale County, and requesting my opinion thereon, received.

From the letter of Judge Koonce it appears that he desires to know, First, if a petition is filed with him as Judge of Probate for the purpose of calling an election to determine whether or not the manufacture and sale of liquors shall be legalized in his county and that petition does not contain the required number of voters, can new names be added to this petition? Second, if a new petition is subsequently presented, is it neces-

sary that a list of entirely new names be upon the petition, or it is only necessary that the requisite number of voters sign the petition whether they have joined in the former petition which has been denied or not?

The petition is filed and necessarily must be filed under the provisions of an act approved February 21st, 1911, known as the Parks Bill. Section 1 and 2 of said act provide for the filing of a petition and the determination of the number necessary to make the petition effective and impose the duty of granting it upon the Judge of Probate. Now there is nothing said in the act about how many petitions may be filed and must be entertained by the Judge of Probate. The only provisions fixing a limitation is that fixed by Section 16 of the act which provides that when an election has been held under the provisions of the act, no subsequent election may be petitioned for or held sooner than four years from the date of the last election.

When the petition has been filed with the Probate Judge, it becomes his duty to act upon it, though he may, upon proper application, allow the petition to be withdrawn at any time before he acts. If, however, the petition is withdrawn, it ceases, of course to be a petition or to have any effect and a formal judgment should be entered allowing its withdrawal. If, on the other hand, the Judge acts, then the petition has accomplished its purpose whether he determines that it has or has not a sufficient number of signatures.

The fact that a petition has been filed and either withdrawn or acted upon adversely would not prevent the filing of a new petition and when such new petition is filed, the only question for the determination of the Judge of Probate is, Does this petition contain the names of forty-five per cent. of the qualified voters of the county as provided by Section 2 of the Parks Bill above referred to? If it does, the petition should be granted without regard as to whether or not the names upon the petition were upon a former petition, withdrawn or rejected. Under the provisions of the Parks Bill, whenever forty-five per cent. of the qualified voters present a petition to the Probate Judge, it is his duty to grant the same.

I return herewith the letters of Judge Koonce.

Yours very truly,

ROBERT C. BRICKELL,
Attorney General.

CONSTITUTIONALITY OF BILL AMENDING SECTIONS 1975, 76, 77, 81, 92, 93 AND 89 OF THE CODE.

May 17th, 1911.

Hon. H. J. Willingham,
Superintendent of Education,
Capitol.

Dear Sir:—

Replying to your letter of the 16th requesting my opinion upon the validity of the bill, H. B. 285, "To amend Sections 1975, 1976, 1977, 1981, 1992, 1993 and 1989 of the Code of Alabama of 1907" approved April 18th, 1911, I find upon investigation of the Journals of the Legislature that on the forty-seventh day of the session, April 5th, 1911, when this bill, H. 285, was taken up and before the third reading, a substitute for the bill was offered and this substitute was set out at length upon the Journal of the House and was adopted by the House and the bill as amended by this substitute was read a third time at length and passed.

Section 1 of this substitute, as shown by the Journal of the House, appropriated the sum of "One Hundred Thousand and Five Hundred Dollars." However, it will be found that Section 1 of the enrolled bill which was signed by the presiding officer and approved by the Governor and which is the law itself, appropriates the sum of "One Thousand and Five Hundred Dollars." The original of the substitute, which was adopted by the House shows that Section 1 appropriates One Thousand and Five Hundred Dollars, the word "hundred" that appears in the copy of this substitute on the Journal of the House, having been stricken out.

Thus it will be seen that the bill which passed the House it materially different from the one approved by the Governor and signed by the presiding officers of the two Houses and presumably different from the one which passed the Senate.

There can be no question with reference to the fact that the difference in the two bills is a material one, the difference being in the total amount appropriated for the purpose of the bill and under the rulings of the Supreme Court of this State with references to such matters, the bill is unconstitutional and obsolutely void in its entirety, the court holding that where an amendment to a bill is set out upon the Journal of either

House, that the enrolled bill must be in accordance with this amendment. (See Stein v. Leepser, 78 Ala. 517, and Moog v. Randolph, 77 Ala. 597.)

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

TOWNS IN WHICH LIQUOR CAN BE SOLD.

May 18, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

In reply to your favor of the 16th inst., asking whether or not the sale of spirituous, vinous, or malt liquors can be legalized in a town of less than one thousand inhabitants, I beg to state that—

> "The number of retail licenses to be granted in any town or city * * * * shall be limited to one for every one thousand, or fraction thereof, of population,"

in all cities and towns of less than 75,000 population. (Acts 1911, p. 254, Section 7.)

It is also provided that—

> "No dispensary shall be established in a town that has less than one thousand inhabitants, unless such town is a county seat, or a town in which the Circuit Court or some court of similar jurisdiction, is regularly held." (Ib. p. 271, Section 46.

I am therefore of the opinion that in a town containing a population of less than one thousand inhabitants, one licensed saloon may be operated; but that a dispensary cannot be operated unless the town be a county seat, or unless a Circuit Court, or court of similar jurisdiction, be located therein.

Very respectfully,
WILLIAM L. MARTIN,
Ass't. Attorney General

ASSESSMENT OF TAXES—VALIDITY OF.

May 20, 1911.

Hon. C. Brooks Smith,
State Auditor,
Capitol.

Dear Sir:—

On the 10th instant you requested an opinion of me with references to the validity of the assessment of taxes by the commissioners court of Washington County upon the shares of captial stock of the W. W. Gates Lumber Company, a corporation organized under the laws of this State.

The only question presented by the petition in this case seems to be as to whether or not the corporation organized under the laws of this State is entitled to have deducted from the value of shares of its capital stock the valuation of property situated in another State, namely the State of Mississippi

Sub-division 9 of Section 82 provides for the taxation of every share of any corporation, except banks and banking associations and provides that this tax shall be assessed in the county in which such corporation has its home or chief office in this State. There is a further provision in this sub-division that the president, or chief officer of such corporation shall return under oath to the assessor a statement of all taxable property owned by such corporation situated in the State and the value thereof as assessed for taxation, and, that the assessor shall deduct the amount of this taxable property from the aggregate value of the shares of the capital stock of such corporation. This is the only deduction provided for in the statutes, and I therefore advise you that the corporation is not entitled to a deduction on account of the fact that part of the capital is invested in real and personal property situated in another State.

A similar statute to the one here in question has been passed upon by the Supreme Court of Maryland in the case of American Coal Company v. Commissioners of Alleghany County, 59 Md. 185, where the court held that it was permissible for the legislature to assess the shares for the amount of property owned by such corporation in the State of Maryland. See also People ex rel. Zulia Steam Navigation Co. v. Commis-

sioners of Taxes, et al, 3 N. Y. Sup. 885; 15 Cent. Dig. 445.

I herewith return the papers handed me with reference to this matter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PROBATE JUDGE—FEE BOOK OF COUNTY COMMISSIONERS—LEGALITY OF CHARGE FOR TRIPS.

May 20, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Prattville, Alabama.

Dear Sir:—

Your letter of the 11th inst. received.

Your first inquiry is: "Section 3706 of the Code requires the Probate Judge to keep a fee book. Does a failure to keep a fee book forfeit fees, including fees for ex officio services?"

Section 3705 provides that no clerk, sheriff or register shall demand or receive a fee for any service not justified by a charge entered upon his fee book. It will be observed that Probate Judges are not included within the terms of Section 3705 and the provision requiring them to keep a fee book immediately following. It must be presumed that the omission of the judges of probate from the provisions of Section 3705 are intentional.

I am therefore of the opinion, and so advise you, that the failure of the Probate Judge to keep a fee book does not forfeit his fees.

Your third question is: "Can members of Commissioners' Courts legally charge the county for going to Montevallo to purchase coal for the county and to Atlanta, Georgia, to purchase furniture for the court house?"

I am unable to find any authority for such charges and I am therefore of the opinion, and so advise you, that such charges should not be allowed as a legal charge against the county.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHERIFF'S FEE BOOK—LEGALITY OF CHARGE NOT ENTERED IN—PROBATE JUDGE—COMPENSATION OF FOR COPYING INDEXES.

May 20, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Prattville, Alabama.

Dear Sir:—

Your letter of the 8th inst., in reference to the failure by the Sheriff to keep the fee book as requird by Section 3704 and 3705 of the Code of 1907, received.

By Section 3704, it is made the duty of the Sheriff to keep a fee book in which he must enter in the form of a regular account every fee charged by him, and, also he must keep an index to such book.

Under Section 3705 the Sheriff is not allowed to demand or receive a fee for any service performed by him not justified by a charge entered in his fee book.

Your question seeks to know whether he forfeits all fees collected from the State and County, including ex officio fees.

It is clear that, under the provisions above quoted, he does forfeit all fees collected from the State and County not entered upon his fee book, except the ex officio fees. These fees (ex officio fees) are provided for under the provisions of Section 3703 of the Code and by the provisions of this Section they are made upon an itemized sworn account, and like provision is also found in reference to Sheriffs in Section 3722 of the Code.

I am therefore of the opinion, and so advise you that the failure of the Sheriff to keep a fee book does not preclude him from collecting fees for ex officio services, although such failure does preclude him from collecting any other fees from the State or County.

Your second question is as follows: "Section 3702 prohibits the judge of probate from receiving any compensation for keeping indexes. Would not that Section prevent the county paying for copying said indexes?"

The keeping of indexes and the copying of indexes already prepared are entirely separate and distinct and if, after the indexes have once been prepared, for some reason it should be

advisable or necessary to have copies of said indexes prepared I see no reason why the county would not have a right to pay for copying such indexes.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

POOR HOUSES—ROAD AND BRIDGE TAX—TRANSFER OF FUND TO GENERAL FUND—SHERIFFS—EX-OFFICIO FEES OF.

May 20, 1911.

Hon. T. J. Gorman,
Examiner of Public Accounts,
Prattville, Alabama.

Dear Sir:—

Your letter of the 8th instant received.

Your first question is: "Under Sections 1598-1617 of the Code, Autauga County has a poor-house. In addition to the inmates of the poor-house the board of revenue makes a monthly allowance to a number of paupers outside of the poor-house. Can said board legally make such allowance?"

They cannot. They are only authorized to make a temporary allowance for not exceeding one month under the provisions of Section 1607 of the Code.

Your second question is: "Autauga County collects a special tax for roads and bridges. The moneys from this tax are still applied to roads and bridges, but on January 15th, 1909, under an order of the board of revenue, the treasurer transferred $2,227.52 of this special fund to the general fund. Can this be done legally, and is not the treasurer liable for the said transfer under Sections 2208 and 2209 of the Code?"

The only authority for the transfer of this special tax to the general fund is contained in Section 2209 of the Code. From your statement it would appear that moneys collected for this special tax are still being used for the purposes for which they were collected, but that a portion of the money has been transferred to the general fund; that this was not done because the purposes for which the special tax is collected has been accomplished.

I am therefore of the opinion, and so advise you, that the transfer of this money was illegal and that the treasurer is liable therefor.

Your third question calls for a construction of the local act approved February 18, 1897, entitled an act "To regulate the ex officio fees of the sheriffs of Autauga, Bibb and Pickens Counties."

In this connection, the act fixing the compensation for these ex-officio fees in these counties at $400.00 and Section 3722 of the Code placing them at $500.00 in all counties, Section 96 of the Constitution of 1901 must be considered. The provisions of this Section are: "The legislature shall not enact any law not applicable to all the counties in the State regulating costs, and charges or moneys or fees, commissions or allowances of public officers." It was evidently the intention of the legislature in the enactment of Section 3722 of the Code to comply with this provision of the Constitution and to establish a rule of uniformity.

I am therefore of the opinion, and so advise you, that the court of county commissioners were authorized to allow the sheriff the sum of $500.00 per annum for ex officio fees.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

AUTOMOBILES—TAXES UPON.

May 22, 1911.

Hon. Cyrus B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

Several days ago you referred to me, for my opinion, the question as to the conflict between the revenue law of Alabama as it effects licenses upon automobiles and the act approved April 22, 1911, "Providing for the registration, licensing, identification and regulation of motor vehicles, etc."

Upon investigation it will be found that the revenue bill passed by the recent session of the legislature was approved on March 31, 1911, and that the other act mentioned was ap-

proved, as above stated, on April 22, 1911. And following a general rule of law I beg to advise you that the latter, being the last enactment of the legislature, must govern wherever the two laws are in conflict.

I herewith return the papers handed me in reference to the matter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BOARDS OF REVENUE—TERMS OF AND POWER—TO EXEMPT FROM COUNTY LICENSE—BONDS OF COUNTY OFFICERS—PAYMENT OF BY COUNTY.

May 23, 1911.

Mr. T. J. Gorman,
Prattville, Alabama.

Dear Sir:—

Your letter of the 19th instant containing the following inquiries has been received at this office:

> "1. Can the Board of Revenue of Autauga County change the terms provided for by statute and hold a Spring Term in May instead of April?
>
> 2. Can the Board of Revenue legally adopt a resolution to pay half of the premiums on bonds of county officers?
>
> 3. Can the Board exempt from paying a county license persons, firms and corporations owning property in the county?"

Replying to your first inquiries I beg to state:

First, That the terms of the Board of Revenue having been expressly fixed by law the Board had no authority to change them and all orders made at unauthorized terms are void. Wightman v. Karsner, 20 Ala. 446; Jackson v. State, 102 Ala. 76; Barber v. State, 143 Ala. 12.

Second. The Board has only such authority as is delegated to it by statute and I fail to find it authorized to pay one-half of

the premiums of county officers who are bonded by casualty companies.

Third. Section 2362 of the Code requires that "The court of county commissioners of each county, except in the cases otherwise provided, may at any regular or special term add to the license taxes specified in the last preceding section such amounts not exceeding fifty per cent. of such taxes for county purposes as, in their judgment, may be necessary, and no license shall be issued without the payment of such percentage for county purposes."

Under this section the court of county commissioners, unless expressly authorized by statute, has no authority to discriminate between persons, firms and corporations owning property in the county from those who do not own property. Gaston v. O'Neal, 145 Ala. 484. I am unable to find such an express authority.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

FINES FOR VIOLATION OF GAME AND FISH LAW—NOT PAYABLE IN SCRIPT.

May 26, 1911.

Hon. John H. Wallace, Jr.,
State Game and Fish Commissioner,
Capitol.

Dear Sir:—

Your letter of the 18th inst., enclosing letter of Hon. John Purifoy, State Treasurer, from Hon. J. E. Nix, Clerk Circuit Court of Marshall County, Alabama, in reference to the payment of the State's part of the fines in the cases of State v. Dave McMinn and Robert Whitaker and G. H. Myers alias Bob Myers by the script of Marshall County which is chargeable against the Fine & Forfeiture Fund of said county, received.

By the provision of Section 6905 of the Code, one-half of all fines, forfeitures and penalties for the violation of any of the provisions of Chapter 219 of the Code, of which Section 6905

is a part, and which chapter refers to the violations of the fish laws, are payable into the State Treasury. The only provision for the payment of fines and forfeitures by certificates in the nature of script, is found in Section 6666 of the Code, which provides for the issuance of these certificates to clerks and sheriffs, but provides that its payment shall be postponed to the rights of witnesses, and does not confer upon the holder of the certificates of the sheriffs and clerks, the right to pay fines and forfeitures with it as is conferred upon the holders of witness certificates. It will be noticed further, that this script is only a claim against the county.

One-half of the fine being required to be paid into the State Treasury, it certainly cannot be paid with this character of script or certificate, and should not be received as payment of the State's half of the fine.

I return you herewith the certificates, the letter of the clerk to Judge Purifoy, and his letter to you.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

TAX SALES OF LANDS—CANCELLATION OF AS ERRORS.

May 26, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of May 25th, enclosing letter from Judge Kumpe, Judge of Probate of Lawrence County, in reference to certain land owned by Mrs. Nancy A. Plant, which was sold as escaped in the year 1902 and bought in by the State, received.

Said sale was made because of failure to pay the taxes due on October 1, 1895.

Mrs. Plant produces what appears to be a receipt from one C. M. Wright by one Hall for these taxes, and from the letter to Judge Kumpe it will appear that such Wright was collector and that such Hall was his deputy at that time. This receipt

bears date February 26, 1896. It is not in the form required by Section 638 of the Code of 1886 which was then in effect, and receipt is upon a blank piece of paper and simply states that it is in full for State and county taxes. This is not such a receipt as you can take official knowledge of, and I therefore am of the opinion and so advise you, that you cannot cancel said sale as an error.

I return you herewith the letter of Judge Kumpe, and also the receipt attached thereto.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

WIDOWS OF VETERANS—THIRD CLASS PENSIONERS.

May 26, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of May 24th in reference to the pensions of widows of confederate soldiers or sailors who are over eighty years of age, received.

I have examined the Section of the Code, 2035, to which you direct my attention, and also the act approved April 24, 1911, entitled an act "To provide pensions for Confederate soldiers and sailors and their widows, and for the payment and regulation of the same."

Acts 1911, p. 690.

An examination of this act clearly shows that the legislature had before it at the time, and intended by this last act, to revise and remodel the entire pension laws of the State. By section 17 of this act, pensioners are divided into three classes: (1) Soldiers or sailors who are over eighty years of age, or totally blind, or who have lost two limbs or the entire use thereof; (2) Those who have lost a leg or foot or arm or hand, or the entire use thereof, or are over seventy years of age; (3) All other pensioners, including their widows.

Thus it appears that by the act last mentioned, all widows are made pensioners of the third class, and Section 2035 of the Code is by said act repealed.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BOND ISSUE FOR ROADS—USE OF FOR BRIDGES—PROCEEDS BELONG IN COUNTY TREASURY.

May 26, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Prattville, Ala.

Dear Sir:—

Your letters of the 23rd and 24th inst., in reference to the bond issue for Autauga County, received.

From your letter, the following state of facts appears:—The Board of Revenue of Autauga County, under authority of an election regularly held, on the 15th day of November, 1909, issued bonds in the sum of $150,000, which were sold at a premium netting the county $156,000; that these bonds were issued for the purpose of refunding the bonds issued for the building of a county court house, for the jail building, and for the public roads. It also appears that the sum raised was placed on deposit with the Autauga Banking and Trust Company, to the credit of G. L. Livingston, as Trustee—Livingston being then the Probate Judge of the County; that he, as trustee, paid all the outstanding court house and jail bonds of the county, and also $21,000 of outstanding warrants for bridges in said county, leaving a balance of $53,570.53, which he turned over to the County Treasurer.

You desire to know: (1) If $21,000 of the money derived from the public road bonds could be used in payment of outstanding warrants for the construction of brides. Bridges have always been considered parts of roads, and the road fund has been used for the payment of bridge work continually, in this State.

I am therefore of the opinion, and so advise you, that the money derived from the issue of bonds for public roads could be used for payment for bridges.

You further desire to know whether the proceeds of these bonds were properly deposited to the credit of Judge Livingston trustee, and paid out by him, or should they have been paid over to the County Treasurer and paid out on warrants issued by authority of the Board of Revenue.

I am of the opinion, and so advise you, that the entire sum received from the bond sale should have been paid out by him only under orders of the Board of Revenue.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHERIFF AND CLERK—FEES OF IN CRIMINAL CASES.

May 26, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Prattville, Ala.

Dear Sir:—

Your letter of the 23rd inst. in reference to the fees of the sheriff and circuit clerk of Autauga County, received.

From your letter, it would appear that the fees of the sheriff and circuit clerk of that county, for their services in issuing and serving subpœnæs for defendant's witnesses in State cases have been allowed such clerks and sheriffs out of the general fund of the county, as for ex officio services.

These fees being for defendant's cost in a State case, are in no manner a charge against the county. They are simply a debt against the defendant, for which he is liable to the clerk and sheriff, as for any other debt.

Burgin v. Hawkins, 101 Ala. 326.

I am therefore of the opinion and so advise you, that the allowance of these claims was improper, and that they should not have been allowed.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PROPERTY—ASSESSMENT OF.

May 27, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of this date submitting to me the communication of Hon. J. H. Camp, Judge of Probate of Talladega County, in reference to the assessment of W. H. Mitchell, and the proposed additional assessment of $20,000 against the Planters' Bank, received.

From the letter of Judge Camp, and the enclosures, it appears that W. H. Mitchell, a citizen of Talladega County, is engaged in a general mercantile business in said county, and also engaged in the banking business under the style of "The Planters' Bank;" that there was at one time a corporation in Talladega County known as The Planters' Bank, of which W. H. Mitchell was the President, and of whose stock he was the principal owner, if not the sole owner; that the bank—that is, the corporation, was dissolved in November, 1909.

Mr. Mitchell, in returning his assessment, makes no return of the money used by him under the style of The Planters' Bank, which is loaned upon mortgages which have been recorded and a tax upon which had been paid at the time the mortgages were filed for record, and it is this sum which constitutes the proposed assessment against The Planters Bank.

That neither the mortgage, nor the deed secured thereby could be taxed, is too clear for argument under the provisions of Section 2082, Sub-division 1 (d) of the Code.

(See also Barnes v. Moragues, 145 Ala. 313.)

The funds invested in such mortgages were, however, held taxable in State v. Sellers & Orum Co., 151 Ala. 557, but in that case the assessment was not against the county, but against the shareholders, and also was under a provision directing expressly how the assessment against the shareholders of a corporation should be made.

The fact that Mr. Mitchell styled a part of his business as a bank, cannot deprive him of the benefits of the provision of Sub-section (d) of sub-division 7 of Section 2082 of the Code.

I am therefore of the opinion, and so advise you, that that part of the capital of Mr. Mitchell used under the style of The Planters' Bank, which is invested in mortgages upon which the tax has been paid, is not subject to other taxation.

I return you herewith the papers enclosed.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHERIFFS—NOT ENTITLED TO FEES NOT ENTERED ON FEE BOOK.

May 27, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Prattville, Alabama.

Dear Sir:—

Your letter of the 26th inst., in which you make the following inquiry, received:

> "The sheriff in this county keeps no fee book as required by Section 3704 and 3705. The circuit clerk collects the sheriff's fees from the State in criminal cases and enters them on his (the clerk's) fee book. The sheriff makes no entry at all. Does not a failure to enter the fees in a fee book cause him, the sheriff, to forfeit them?"

The provisions of Section 3705 are so explicit as to need no construction. The sheriff cannot demand or receive any fee for any service performed by him, not justified by a charge entered in his fee book. He is therefore not entitled to receive the fees about which you inquire.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

TEACHERS' INSTITUTES.

May 29, 1911.

Hon. H. J. Willingham,
Superintendent of Education,
City.

Dear Sir:—

Complying with your request that I advise you whether or not, under Section 2 of an act to provide for the holding of teachers institutes in this State and to make necessary appropriations for the same, the institutes can be held for a period of two weeks, I beg to state that, in my opinion, it was the intention of the Legislature to fix at one week the minimum time for holding the Institute, and that the limitation imposed does not extend to a period which is greater than one week. I am therefore of the opinion that a teachers' institute can, if necessary, be extended over a period of two weeks.

Yours very truly,
WILLIAM L. MARTIN.
Assistant Attorney General.

TAX RAISES—FEES OF OFFICER FOR CITATIONS IN.

May 31, 1911.

Mr. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

In reply to your inquiries of the 23rd and 29th inst., asking this office to advise you whether or not a charge by the probate judge of Autauga County, for issuing three hundred seventy citations and subpœnas to tax payers to appear before the Board of Revenue to show cause why their taxes should not be increased, I beg to advise you as follows:

It is provided in Section 2260 of the Code that when it shall come to the knowledge of a tax commissioner that any person or property has not been assessed with the taxes lawfully chargeable for the current year, he shall forthwith assess the same and deliver the assessment to the clerk of the

court of county commissioners. Thereupon, the clerk of this court shall issue a notice to the person named in the assessment to appear at a certain time before the board of county commissioners, and such notice shall be "issued and served upon the person named in the assessment, shall state the amount of the proposed raise, and shall be served by the tax commissioner or his deputy, who shall be paid the same fees therefor as are paid to the tax assessor for like services."

Code section 2262.

I am therefore of the opinion that it was the duty of the clerk of the court of county commissioners, and not of the probate judge, to issue citations to owners of property which had not been assessed with the taxes fully chargeable.

Yours very truly,
WILLIAM L. MARTIN.
Ass't Attorney General.

FEES OF CLERK OF SUPREME COURT IN CASES TRANSFERRED TO COURT OF APPEALS.

May 31, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

In reply to your favor of the 27th inst., asking that this office advise you whether it is the duty of the Clerk of the Court of Appeals to pay to the State Treasurer, or to the Clerk of the Supreme Court, costs which accrued in cases originally pending in the Supreme Court and transferred to the Court of Appeals upon its organization, I beg to advise you that the Clerk of the Supreme Court, who was also the Clerk for the term ending January 16, 1911, and whose compensation at the beginning of the present term was placed on a salary instead of a fee basis, is entitled to all costs and fees accruing before January 16, 1911, though not collected until after that date. As the act "To Establish a Court of Appeals for the State of Alabama, and to provide for the

transfer of certain cases now pending in the Supreme Court to said Court of Appeals," is silent as to the manner in which the Clerk of the Court of Appeals shall disburse costs and fees collected in cases transferred to that court from the Supreme Court, and as a disbursement by him direct to the Clerk of the Supreme Court is the only method by which the latter official can be paid the fees to which he is legally entitled, I am of the opinion that it is the duty of the Clerk of the Court of Appeals to pay the Clerk of the Supreme Court costs and fee which he has collected in cases transferred to the Court of Appeals, and which accrued prior to January 16, 1911.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

CITATIONS FOR TAX RAISES—FEES OF OFFICERS FOR.

June 3, 1911.

Mr. J. T. Gorman,
200½ Dauphin St.,
Mobile, Ala.

Dear Sir:—

I am in receipt of your favor of the 2d inst., asking whether or not the Judge of Probate of Autauga County, acting as Clerk of the Board of Revenue, is to be allowed a fee of fifty cents on citations issued to owners of property which has not been taxed with the full amounts lawfully chargeable against it. I beg to state that neither Section 2260, 2261 nor 2262, which deal with this subject, allows the Clerk any fee for issuing the citations.

I am, therefore, of the opinion that the fees allowed the Judge of Probate of Autauga County, as Clerk, were not properly chargeable against the county.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

INSURANCE COMPANIES—TAXATION OF.

June 5, 1911.

Hon. Cyrus B. Brown,
Secretary of State, ex officio Insurance Commissioner,
Capitol.

Dear Sir:—

Your letter of this date requesting me to advise you whether domestic insurance companies, in paying their company license as provided under Section 4577 of the Code, are entitled to a credit for the amount of said taxes paid on its property or shares, received.

Any right to a deduction when a tax is to be paid to your department by domestic insurance companies for the amount of taxes paid on its property or shares, arises under the provisions of Section 4570 of the Code, or under the provisions of Section 4 of the act entitled an act "To further provide for the revenues of the State of Alabama," approved March 31, 1911. Both the Section of the Code and the Section of the act above referred to, make a levy of One Dollar on each One Hundred Dollars or gross premiums received in this State; both the Section of the Code and the Section of the act provide that the tax upon its property or shares may be deducted from this tax, (the tax upon gross premiums) and do not provide for any deduction on this account from any other tax.

I am therefore of the opinion, and so advise you that they are not entitled to a deduction from the license tax imposed by Section 4577 of the Code, on account of any tax paid upon their property or shares. Yours very truly,

ROBERT C. BRICKELL.
Attorney General.

HEALTH OFFICERS—EXPENSES OF.

Dr. W. H. Sanders, June 6, 1911.
State Health Officer,
Capitol.

Dear Sir:—

Your letter of this date requesting me to advise you whether under Section 733, of the Code of Ala-

bama, as amended by the Act approved April 22, 1911, Acts 1911, p. 621, you would be authorized to defray the expenses of health officers of counties and municipalities contiguous to Montgomery, when summoned here by you for the purpose of receiving instructions in the execution of the health laws of the State and in the collection of vital, mortuary, and infectious disease statistics, or call them to meet in other parts of the State for the same purpose, and pay said expenses out of the appropriation made by said act, received.

In reply, I beg to advise you that if such expenditures are in your opinion necessary and proper to carry out the purpose above stated, that you would have authority to so expend so much of the appropriation as may be necessary for that purpose.

Yours very truly,
ROBERT C. BRICKELL.
Attorney General.

FEES OF WITNESSES SUMMONED BEFORE EXAMINERS OF PUBLIC ACCOUNTS—FINES IN INFERIOR COURT OF ENSLEY—WHEN PAYABLE.

June 19, 1911.

Mr. H. Y. Brooke,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

In reply to your favor of the 11th inst., requesting this office to advise you, (1) whether or not witnesses summoned to give testimony to assist you in the examination of a public account are entitled to pay and mileage out of the county treasury; and (2) whether you shall charge to the judge or to the clerk of the Inferior Court of Ensley fines collected and not paid into the county treasury, I have the honor to advise you as follows:

Section 547 of the Code, Section 2, Acts 1909, p. 352, and Section 2, Acts 1911, p. 492, while authorizing examiners of public accounts to summon witnesses to give testimony to assist them in the examination of a public account, are silent

with references to the payment of fees to witnesses so attending. Section 3693 of the Code prescribes that the law of costs and fees must be held to be penal, and no fee must be demanded or received except in cases absolutely authorized by law.

Torbert v. Hale County, 131 Ala. 143, 145.
Troup v. Morgan County, 109 Ala. 162, 165.
Kahn v. Loche, 75 Ala. 332.
Tillman v. Wood, 58 Ala. 578.
City Council of Montgomery v. Foster, 54 Ala. 62.

The act creating the Inferior Court of Ensley (Acts 1907, p. 890) does not provide specifically to whom fines therein imposed and collected shall be payable, but while setting out in detail the duties of the clerk and failing to state that fines shall be paid to him, it invests the judge of the court with the duties, powers, and jurisdiction of a justice of the peace. Section 6888 of the Code requires that all fines be paid into the county treasury in which the indictment was found or the prosecution begun, and Section 7488 fixes the penalty to be imposed on a justice of the peace for failure to pay to the county treasurer the amount of fines and forfeitures collected by him, less certain deductions. Section 4 of the act in question prescribed that the clerk shall pay into the county treasury all costs and fees collected.

I am therefore of the opinion, (1) that in the absence of absolute authority for the payment of a witness's fee and mileage, such could not be taxed against the county treasury; and (2) that it is the duty of the judge of the Inferior Court of Ensley to collect the fines therein imposed, and that of the clerk to collect the costs and fees, and each is required to pay into the county treasury the fines and the costs and fees respectively collected.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

TAX ASSESSOR—COMPENSATION OF FOR ATTENDING COURT OF COUNTY COMMISSIONERS—EXPENSES OF COUNTY COMMISSIONERS.

June 20, 1911.

Mr. Frank V. Evans,
Fayette, Ala.

Dear Sir:—

In reply to your favor of the 17th inst., asking this office to advise you (1st) whether a tax assessor is entitled to compensation for daily attexndance on the court of county commissioners while engaged in examining, hearing and correcting assessments; and (2nd) whether members of the board of county commissioners have authority to charge the county with the expense of making inspections of court houses elsewhere for the purpose of selecting plans for the building of new court houses, I have the honor to advise you as follows:

Section 2150 of the Code, requiring the attendance of the tax assessor on the court of county commissioners while engaged in examining, hearing and correcting assessments, fails to provide for compensation for this particular duty, and I am of the opinion that he is not entitled to such additional compensation.

The members of the court of county commissioners are entitled to compensation only when occupied in the discharge of the duties as such members, and to mileage only in going to and returning from their courts (Acts 1909, p. 157) and I am of the opinion that in the absence of express authority, a claim for compensation and for expenses incurred in inspecing court houses at other places for the purpose of obtaining plans, is not a proper charge against the county.

Yours very truly,

WILLIAM L. MARTIN,
Assistant Attorney General.

SHERIFF—EX-OFFICIO FEES OF.

June 21, 1911.

Mr. J. T. Gorman,
Union Springs, Alabama.

Dear Sir:—

In reply to your favor of the 19th inst., stating that the sheriff of Bullock County proposed to the court of county commissioners to accept four hundred dollars in full payment for ex officio services, provided the court would not require him to present a verified account showing the items of service rendered, and that, pursuant to a tacit understanding between the sheriff and the board, he was paid one hundred dollars quarterly, and requesting this office to advise you whether such a charge is a legal one, I have the honor to advise you as follows:

Section 3722 of the Code provides that where the annual income of the sheriff's office does not exceed $7,500.00, net, the sheriff shall receive for certain public services not otherwise specifically provided for such sum as may be allowed by the court of county commissioners upon presentation of a verified account showing the items of service rendered, not exceeding five hundred dollars per annum. Unless the account was verified and itemized to show the services rendered, the court was unable to pass intelligently on the worth of the sheriff's service and the consequent compensation due him, and I am of the opinion that, such verifying and itemizing being a condition precedent to the allowance of the compensation, the charge was an illegal one against the county, and improperly allowed.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

PROBATE JUDGE—CHARGES OF FOR EXTRA ROAD SERVICES.

June 21, 1911.

Mr. J. T. Gorman,
Union Springs, Alabama.

Dear Sir:—

In reply to your favor of the 19th inst., stating that in addition to a fee of ninety dollars for discharging his duties in relation to public roads (Code Section 2726), the judge of probate has collected several hundred dollars for extra road services, and requesting this office to advise you if this official is legally entitled to such compensation, I beg to state that in my opinion a judge of probate is entitled to no other compensation for discharging his duties in relation to public roads than is provided in Section 3720 of the Code, and that an additional charge for "extra road services" is not legal charge against the county treasury.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

PHYSICIAN—ALLOWANCE TO FOR EXAMINATION INSANE PATIENTS ILLEGAL—COUNTY COMMISSIONERS—ENTITLED TO FIVE CENTS PER MILE FOR ATTENDING COMMISSIONERS' COURT—AUTOMOBILE—COURT OF COUNTY COMMISSIONERS NO AUTHORITY TO PURCHASE—WITNESSES BEFORE JURY COMMISSIONERS —NO PROVISION FOR FEES OF—ADDING MACHINE—PURCHASE OF ILLEGAL—TELEPHONE—COUNTY WITHOUT AUTHORITY TO PAY FOR—LIGHTS IN COURT HOUSE—DUTY OF COURT OF COUNTY COMMISSIONERS TO FURNISH—INTEREST ON OVERDRAFTS—COUNTY WITHOUT AUTHORITY TO PAY—LAW BOOKS—COUNTY NO AUTHORITY TO FURNISH TO CITY COURT JUDGE—GUNS AND PISTOLS—COUNTY NO AUTHORITY TO PURCHASE FOR SHERIFF—COOKING UTENSILS—COUNTY NO AUTHORITY TO PURCHASE FOR SHERIFF—CLERK OF CIRCUIT COURT ENTITLED TO ONLY ONE FEE IN SUMMONING WIT-

NESSES IN CRIMINAL CASE—BAILIFF OF GRAND JURY—ENTITLED TO FEE AS WITNESS IF APPEARING AS SUCH—WITNESS BEFORE GRAND JURY ENTITLED TO ONE DOLLAR PER DAY AND FIVE CENTS PER MILE FOR DISTANCE TRAVELED—GUARD FOR SICK PRISONER WHEN REMOVED TO HOSPITAL, DUTY OF SHERIFF TO PROVIDE—PRISONERS—SHERIFF ALLOWED FEES FOR FEEDING ONLY WHEN ACTUALLY IMPRISONED—JAIL GUARD ON SALARY NOT ENTITLED TO HOLD OTHER OFFICE—BAILIFFS FOR COURTS OF MONTGOMERY COUNTY—LOCAL LAW PROVIDING FOR UNCONSTITUTIONAL—ASSISTANT NIGHT JAILER—ACT CREATING CONSTITUTIONAL—OFFICIAL BAILIFF FOR MONTGOMERY COUNTY—LOCAL ACT—FIXES SALARY AT $75.00 PER MONTH—UNCONSTITUTIONAL—SHERIFF'S AND CLERK'S CLAIMS NOT LEGALLY RECEIVED IN PAYMENT OF FINES—CIRCUIT CLERK—ENTITLED TO FEE OF TWENTY-FIVE CENTS FOR ISSUING WITNESS CERTIFICATE—CIVIL CASES—PRISONER CHARGED WITH MISDEMEANOR—FEEDING OF AUTHORIZED CHARGE—PRISONER SENTENCED TO JAIL BY JUSTICE OF THE PEACE—FEEDING OF LEGAL CHARGE—PRISONER ENTITLED TO DISCHARGE IF GRAND JURY RETURNS NO BILL AGAINST HIM—CHARGE FOR FEEDING THEREAFTER NOT A LEGAL CHARGE—COURT OF COUNTY COMMISSIONERS HAS UNLIMITED JURISDICTION OVER PUBLIC ROADS—COURT OF COUNTY COMMISSIONERS MAY TRANSFER TO ROAD FUND ANY SURPLUS IN GENERAL FUND.

June 24, 1911.

Hon. C. E. McCall,
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

In reply to your favor of the 6th inst., setting out at length questions upon which you desire the advice of this office, I beg to hand you herewith as follows the answers thereto:

(1) I am unable to find authority for the allowance of a fee of $5.00 to a physician summoned by the judge of probate to examine a person who appears to be insane. Section 7180 of the Code provides that the judge of any court of record of the county where the subject is confined may, in his investi-

gation, call a physician and other creditable witnesses. In the absence of a specific provision to the contrary, the physician will be entitled only to the same fee as the witness, under Section 3681 of the Code.

(2) Under an act "To amend Section 3322 of the Code of 1907," a member of the Court of County Commissioners or Board of Revenue is entitled to five cents per mile in going to and returning from his court. In my opinion, such member is entitled to mileage for each day's attendance, if he makes daily the trip between his place of residence and the county seat.

(3) An investigation of the general powers of the court of county commissioners, and of their authority with reference to the subject of public roads, fails to disclose authority to purchase an automobile for the use of the county engineer, and to pay out of the county funds the cost thereof, and the necessary expenditures for its use, and insurance. Section 5767 gives unlimited jurisdiction to the court of county commissioners as to "construction, maintenance and improvement of public roads, bridges, and ferries," but there is no implication in this article, or in Article 2 of the chapter on public roads that the court may order the purchase of an automobile.

(4) The jury law (Acts 1909, p. 305) provides for the summoning before it of witnesses (Section 4, page 310), but makes no allowance for their fee. In the absence of a specific allowance, such a witness fee is not a legal charge against the county.

Terbert v. Hale County, 131 Ala. 143, 145.
Troup v. Morgan County, 109 Ala. 162, 165.
Kahn v. Locke, 75 Ala. 332.
City Council of Montgomery v. Foster, 54 Ala. 62.

(5) An adding machine, though a modern convenience and of much value in the efficient conduct of the treasurer's office, has not, unfortunately, been provided for by statute, either expressly or by implication, and is therefore an improper charge against the county.

(6) A telephone, though adding greatly to the convenience and efficiency of county officers, has not been provided by statute, and is therefore an impropr charge against the county.

In accepting public office one must undergo the accompanying burdens, and if desirous of those conveniences must supply them at his own expense.

(7) It is the duty of the court of county commissioners, in my opinion, to furnish and pay for lights in the courthouse, but I am unable to find authority for charging the county with ice for the use of the county officers.

(8) There is no provision for the payment to a bank of interest on overdrafts on the general fund. The treasurer is the custodian of the county's funds. Originally he kept them in his possession, and disbursed them on warrants. Under that system, it would have been impossible to overdraw any funds. If the treasurer deposits the funds in bank, he does so for his own convenience, security, or satisfaction. If the bank wherein the funds were deposited permits them to be overdrawn, the payment of interest to the bank on such overdraft is not a legal charge against the county.

(9) There is no authority of law under which a court of county commissioners can furnish a judge of a court with law books. Sections 590 and 6002 of the Code provide for the free distribution of Alabama reports, acts, and digests to judges of courts of record; the judge of the court must purchase other books desired, and a charge against the county for a set of Cyc is improper.

(10) There is no authority under which the court of county commissioners can purchase for a sheriff the guns and pistols necessary for the successful conduct of his office. This expense is one of the burdens the officer himself must bear.

(11) The sheriff, being allowed a per diem for feeding prisoners, must furnish the cooking utensils necessary for the performance of this duty, and a charge against the county for such expense is improper.

(12) In criminal cases, it is made incumbent on the clerk of the court to issue subpœnas for witnesses only at the term when a case is first set down for trial, or after a reversal by the Supreme Court or Courts of Appeals (Code, Section 7881); if the case is continued, the witness must appear again without being re-subpœnæd. The clerk is entitled to only one fee for issuing his subpœna, and the sheriff to only one fee for serving it; if these officers repeat these duties on the continuance of the case, their acts must be regarded as ex officio.

(13) A witness appearing before the grand jury, though serving in the capacity of bailiff, is entitiled to his certificate as a witness (Code, Section 7296), and to his pay under Sections 6659 and 6660.

(14) Under an act "To provide for the payment of witnesses before the grand juries and State witnesses in all criminal cases" (Local Acts 1907, p. 721), a witness before the grand jury of Montgomery County, and State witnesses in all criminal cases, shall each be entitled to a fee of one dollar per diem and five cents per mile for distance traveled.

(15) The act creating the Inferior Court of Montgomery (Local Acts, p. 3) sought to provide for the imposition of a "turnkey" fee, which, having been omitted in the Code of 1907, and the omission having taken effect on January 16, 1911, was not at the time of the approval of the act, on January 21, 1911, a legal charge or fee. On February 28, 1911, there was approved an act revising the list of sheriff's fees enumerated in Section 6638 of the Code, but the provision for a "turnkey" fee, having been omitted originally from that section, was not re-enacted. It is true, there was substituted for the omitted "turnkey" fee the guard fee, similar to the "turnkey" fee only in amount. I am of the opinion, therefore, that the failure of the legislature to provide for a "turnkey" fee left inactive the provisions in Sections 7 and 9 of the local act in question, relative to the payment of such fees to the sheriff, and it being provided in Section 9 that the sheriff shall receive no fees, but a salary of $1,800 per annum, for his services in connection with the court, all sheriff's fees accruing in said court, including guard fees, should be paid into the county treasury.

The fee allowed a sheriff under Acts of 1911, p. 41, for guarding a prisoner, accrued only when this act went into effect, such fees not being chargeable heretofore.

As Section 6655 of the Code relates to a special class of fees, and as the act amending Section 6638 of the Code, relative to sheriffs' fees, was general in its nature, and as there is no repealing clause in the act in question, I am of the opinion that there is a field of operation for both section 6655 and the act. Section 6655 appeared first in the Code of 1852, and has since existed side by side with the general statute regarding fees of sheriffs and probate judges. It can hardly, therefore, be contended that this section is repealed by the later act.

Repeals by implication are not favored, and when the intention to repeal a former statute is not expressed in the later, a repeal of the former will not be implied.

George v. Skeaters, 19 Ala. 738.
Pearce v. Bank of Mobile, 33 Ala. 693.
Parker v. Hubbard, 64 Ala. 207.
State ex rel. Tyson v. Houghton, 142 Ala. 90.

(17) Under Section 7202, it is the duty of the sheriff, in removing a sick prisoner to a hospital, to summon the necessary guard to prevent his escape. No specific authority being given for the payment by the county of the expense of guarding a prisoner, it becomes one of the duties of the sheriff to pay such expenses, and such an allowance by the county is improper.

(18) An act to amend Section 6636 of the Code, (Act 1911, p. 41), provides that the sheriff shall receive "for feeding prisoners in jail under charge or conviction of any indictable offense" certain amounts per diem, depending on the number of prisoners. When a person is arrested, goes to jail, makes bond, is not locked up, and does not therefore take a meal in the jail, he is not therefore a prisoner under the act in question, and the sheriff is not entitled to charge the State for feeding him. If one under arrest is locked up, becoming actually a prisoner, though spending only an hour in jail, and without being furnished a meal, I am inclined to think that it would come under the letter of the law, and only the letter, for the sheriff, in exacting of the State the daily allowance for feeding prisoners, to include the short term prisoner.

It is not proper for a sheriff to charge the State with feeding for two days a prisoner who entered the jail at night after supper and was released the next morning before prisoners were fed.

(19) The court of county commissioners has authority to pay only for the stationery actually purchased for the use of those county officials whose supplies are provided for by the Statute.

A claim audited and allowed at an unauthorized term of the court of county commissioners creates no liability on the county, and should therefore be disallowed.

Wightman v. Karsner, 20 Ala. 446.

(20) An officer serving as jail guard, under the provisions of an act "To provide for guards of Montgomery County jail" (Acts 1907, p. 680), at a salary of $75.00 per month, is not entitled to hold an additional office and to draw additional compensation at the rate of $2.00 per day. The holding of two offices of profit at one and the same time is expressly forbidden. (Constitution, Section 280.)

(21 & 22) The act "To provide bailiffs for the courts of Montgomery County" (Local Acts 1907, p. 36), provides that the sheriff shall furnish not exceeding three deputy sheriffs to act as bailiffs in the courts of Montgomery County, and he shall receive $2.00 per day for the attendance of each bailiff or deputy sheriff. Section 3264 of the Code requires the sheriff to furnish three bailiffs, constables, or deputies, and the bailiffs, constables, or deputies shall receive $2.00 per day for their attendance. The local statute with reference to Montgomery County is different from the general statute only in requiring the sheriff to furnish his deputies to act as bailiffs, and in providing that he and not the bailiff shall receive the compensation provided. It is incumbent on the sheriff to employ one regular deputy (Code, Section 5869), and the arrangement between the two with reference to the compensation paid the deputy is a personal matter. I cannot say that the diversion of the per diem from the bailiff under Section 3265 of the Code to the sheriff under the local act referred to increases the sheriff's fees or compensation, thereby construing Sec. 68 of the constitution, a question unnecessary to decide; but the law in question, being local in its nature, is unconstitutional, in that, regulating the allowance of a public officer, it is not applicable to all counties in the State. (Constitution, Section 96.) The local act (Acts 1907, p. 36), providing for bailiffs of the courts of Montgomery County, is therefore unconstiutional. A claim against the county for the payment of the fees therein imposed is not a legal one.

(24) The act creating the position of assistant night jailer (Local Acts 1911, p. 322), is not illegal or unconstitutional.

(25) Under the act "To provide for the appointment of an official bailiff" (Local Acts 1911, p. 197), it is provided that the county pay such bailiff at the rate of $75.00 per month. Section 3265 of the Code fixes a bailiff's compensation at $2.00 per day. The local act, therefore, regulating the allowance

of a court bailiff, is not applicable to all counties, and is therefore unconstitutional. (Constitution, Section 96:) It is also a local law enacted in a case provided for by general law.

A claim of a sheriff or circuit clerk cannot be legally received in payment of a fine or forfeiture. If so, Section 6889, requiring fees of officers of the court in cases where convictions are not secured to be paid out of any surplus over and above the sum required to pay registered claims of witnesses would be nullified, and such officers' fees would indirectly take precedence over such regularly preferred claims.

(26) Section 3674 provides that the clerk must, on application of a witness in civil cases, issue a certificate. Section 3713 provides (page 499) that for "making each necessary certificate, not otherwise provided for," the clerk shall receive a fee of twenty-five cents. The witness certificate, if demanded, must necessarily be issued, for the issuance of which the clerk is entitiled to his fee.

(27) There is no provision of law requiring a justice of the peace to set a defendant's trial not more than ten days in the future. He is not authorized, however, to continue a case to a date more than ten days distant.

The feeding of a prisoner in jail under any misdemeanor charge is a legal claim against the State. (Acts 1911, p. 41.)

(28) The charge against the State by a sheriff for feeding a prisoner convicted in a justice of the peace court and sentenced to jail in lieu of the payment of fine and costs is a legal claim against the State.

(29) A prisoner confined in the county jail awaiting the action of the grand jury is entitled to his immediate release when after the report of that body it is learned that he has not been indicted. The failure to indict him has nullified the charge against him, and he no longer being "under charge of an indictable offense," the sheriff is not entitled to compensation for feeding him.

(30) The act (Acts 1911, p. 731) providing for the payment out of the county treasury of part of his salary on the warrant of the circuit judge, being a specified and unmistakable method of payment, repeals by implication any former law to the contrary.

A court of county commissioners has unlimited jurisdiction and powers as to the construction, maintenance, and improve-

ment of public roads, bridges, or ferries, etc., (Code, section 5767), and I am of the opinion that it is within their discretion to improve any road they see fit, but that they could not be compelled to do so.

Under Section 5766 of the Code, the court of county commissioners may transfer to the road fund any surplus in the general fund, and may use such surplus on public roads. "Public road," in my opinion, means any pubic road in the county, whether in an incorporated city or not.

It has become necessary, in answering your inquiries, to declare illegal and improper many charges made against the county by its officers. The law with reference to expenditures of the public money is not difficult of understanding. For every charge against the county there must be some certain authority.

> "The county can be charged only with such expenses as are authorized by law * * * Where there is no law which creates the liability, it cannot be enforced against the county * * * * It is only liable for the debt the law enables it to contract * * * * 'No claims are chargeable on the county treasury, nor can be paid therefrom, except such as the law imposes on the county, or empowers it to contract. No officer of the county can charge it with the payment of other claims, however meritorious the consideration, or whatever may be the benefit the county may derive and enjoy from them'."

Van Epps v. Commissioners, 25 Ala. 460.
Mitchell v. Tallapoosa County, 30 Ala. 131.
Barbour County v. Clark, 50 Ala. 418.
Posey v. Mobile County, 50 Ala. 6.
Jack v. Moore, 66 Ala. 187.
Naftel v. County of Montgomery, 127 Ala. 563.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

STATUS OF CONVICTS—WHEN COSTS IMPROPERLY TAXED.

July 3, 1911.

Hon. James G. Oakley,
President Board of Inspection,
Capitol.

Dear Sir:—

In reply to your favor of the 30th ult., asking this office to advise you (1) the rate at which costs shall be computed where a clerk has certified the rate at 40 cents per diem; (2) in the event that costs are fixed at 40 cents per diem can the convict be released under writ of habeas corpus; (3) will contractors be liable to convicts for the difference between 40 cents and 75 cents per diem for the time worked and for damages; (4) is it the duty of court officials in cases where costs have been erroneously calculated, to furnish hirers of convicts with a corrected transcript; (5) is it the duty of the convict department to calculate costs at 40 cents per diem up to, and at the rate of 75 cents per diem, after, the date of the rendition of the opinion in the case of Dowling v. State, 55 So. Rep., declaring unconstitutional the act fixing the daily rate at 40 cents, I beg to advise you as follows:

While not absolutely necessary to its validity, it is advisable that a judgment specify the precise amount of costs, the number of days the defendant is to serve to pay them and the sum allowed for each day's service.—

Walker v. State, 58 Ala. 395;
Evans v. State, 109 Ala. 11, 25.

Where the judgment shows on its face the time required to work out the costs, the amount thereof and the rate fixed at 40 cents per diem, it is your duty to correct this calculation at the rate of 75 cents per diem from the beginning of the defendant's sentence. Where the judgment specifies the number of days and the amount of costs, it is your duty to test the correctness of the time specified and if the calculation is based on the 40 cent rate per diem, you should correct the judgment at the rate of 75 cents from the beginning of defendant's sen-

tence. If, according to the provisions of Section 7635 of the Code, a court has determined the time and the judgment specifies only the exact duration necessary to work out the costs, it will be presumed that the sentence is correct and you have no authority to disturb it.—

Croom v. State, 71 Ala. 14;
Evans v. State, 109 Ala. 11, 25;
Washington v. State, 117 Ala. 30, 32.

As the advice herein above given you will probably be sufficient for the future guidance of your department, I do not deem necessary a discussion of the other questions propounded.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

SOCIAL AND LITERARY CLUBS—EXEMPTION OF FROM TAXATION.

July 3, 1911.

Hon. J. Lee Long,
Chairman State Tax Commission,
Capitol.

Dear Sir:—

In reply to your request of the 29th ult., enclosing letter from tax commissioner of Calhoun County, asking whether or not a corporation organized for the social and literary advancement of its members, owning golf links, bowling alleys and a ball room, and conducted entirely for their amusement and entertainment, is exempt from taxation, and asking this office to advise you officially on this subject, I beg to advise you as follows:

Section 3622 of the Code provides for the exemption from taxation of all property to an amount not exceeding two thousand dollars, which is owned by a corporation formed bona fide for the "social and literary advancement of its members," providing also that if such property is used for any other pur-

pose than legitimately pertains to the object of such society, it shall not be so exempt. Golf links, bowling alleys and ball rooms owned by a social club are not ordinarily used for any other purpose than pertains to the object of such society, and I am of the opinion that a corporation by possessing these sources of amusement and pleasure for the social advancement of its members, does not forfeit its exemption from taxation.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

PLAT BOOK—COMPENSATION OF ASSESSOR FOR.

July 3, 1911.

Hon. J. Lee Long,
Chairman State Tax Commission,
Capitol.

Dear Sir:—

In reply to your favor of the 29th ult., requesting this office to advise you whether a tax assessor is entitled to yearly compensation for revising or checking up the county plat-book, I beg to advise you that Section 2120 of the Code (Acts 1909, p. 179) makes it the duty of the tax assessor to make out each year a plat-book of all real-estate in his county and provides for his compensation not to exceed certain amounts, depending on the population of his county. There being no necessity for compiling a new plat-book each year, it being entirely practicable for the assessor, by making yearly corrections of assessments to show the necessary changes of property, and the amount of compensation to be allowed the assessor being discretionary with the court of county commissioners, I am of the opinion that the statute may be compiled with without making a new plat-book annually, the assessor is entitled to such compensation as always by the court of county commissioners.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

TAX ASSESSOR—COMMISSIONS OF.

July 3, 1911.

Hon. J. Lee Long,
Chairman State Tax Commission,
Capitol.

Dear Sir:—

In reply to your favor of the 29th ult., requesting this office to advise you whether a tax assessor is entitled to his commissions after regularly making, entering and computing the assessments on property exempted by the court of county commissioners from county taxation, I beg to advise you as follows:

It is the duty of the court of county commissioners, in levying the amount of county taxes deemed necessary for county expenses, to take as the basis of assessment the value of taxable property, "as assessed for revenue to the State."

Code Section 3155.

The property of the Southern Steel and Iron Company, having been regularly assessed for revenue to the State, the court of county commissioners was without authority to exempt it from bearing its share of county taxes.—

Swarn & Billups v. State, 77 Ala. 545, 547;
Mayor & Aldermen v. Klein, 89 Ala. 461,, 464.

The tax assessor, therefore, having regularly assessed, carried up or extended the taxes on the property of the Southern Steel and Iron Company, cannot, in my opinion, be deprived of his commissions through an unauthorized order of the board of county commissioners exempting such property from taxation.

Yours very truly,

WILLIAM L. MARTIN,
Assistant Attorney General.

STOVES—LICENSE TAX FOR SELLING OR DELIVERING.

July 5, 1911.

Hon. C. B. Smith,
Auditor,
Capitol.

Dear Sir:—

In reply to your favor of the 5th inst., enclosing correspondence of Messrs. Gregory L. and H. T. Smith relative to the payment of a license tax by a corporation which sells stoves by samples exhibited or displayed in wagons and asking this office to advise you if such a corporation comes within the provisions of Section 30 of the act "To further provide for the revenue of the State of Alabama," Acts 1911, p. 159, I beg to advise you as follows:

Section 30 of the act in question reads as follows:

> "Each person, firm or corporation selling or delivering stoves or ranges, shall pay fifty dollars annually for each county in which they may sell or deliver said articles; and for each wagon and team used in *delivering* or *displaying* the same an additional sum for each county of twenty-five dollars annually but this section shall not apply to merchants selling the above enumerated articles *at* their regularly established places of business.'

It would seem from the wording of this section that it was the intention of the legislature to exact a license from the person, firm or corporation that sells stoves through an itinerant salesman, delivering or displaying his wares by wagons, and to exempt from the tax the merchant who keeps them as a part of his general stock and sells them at his regularly established place of business. The traveling wagon in which the goods are displayed seems to be the test as to whether or not the tax is due, and I am of the opinion that a person, firm or corporation displaying stoves in this manner, is liable for the tax imposed by Section 30 of the act in question.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

CIRCUIT JUDGE—INCREASE OF SALARY OF.

Hon. Charles E. McCall,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

On June 24th I advised you that in my opinion the circuit judge could not draw an increase in his salary during the term for which he was elected or appointed. While Section 150 of the Constitution provides that the compensation of such an officer shall not be diminished during his official term, Section 281 prohibits both an increase and a decrease during the term for which the officer was elected. However, I find upon investigation that this question was before the Supreme Court some years ago, when the Legislature increased the salaries of the judges of that court, and it was determined that Section 150 prevailed, and that it did not prohibit a judge from drawing an increase during the time for which he was elected. I beg therefore to change my opinion which I formerly submitted to you on this question.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

CHECK PAYABLE IN NEW YORK EXCHANGE NOT NEGOTIABLE PAPER.

July 11, 1911.

Hon. A. E. Walker,
Superintendent of Banks,
Montgomery, Ala.

Dear Sir:—

Your letter enclosing blank check of Roanoke Banking Company marked "payable in New York exchange at current rate," and requested me to advise you whether or not this check is a negotiable instrument, received.

The question of the negotiability of the instrument must be determined by the act of the legislature passed at the session

of 1907, codified as Sections 4958-5143 inclusive, of the Code of 1907, which act was also re-enacted by the legislature at the special session of 1909, Acts Special Session 1909, p. 126. By Section 1 of said act it is provided that an instrument to be negotiable must conform to certain requirements, the second of which is, "it must contain an unconditional promise or order to pay a sum certain in money."

Although by Section 2 of the act, being Section 4959 of the Code, the sum is a sum certain, payable with exchange at the current rate, the check which you submit to me is not negotiable, for the reason that although the sum to be paid is certain, it is not to be paid in money, which is essential to negotiability as above pointed out.

I am therefore of the opinion and so advise you, that the check which you enclose is not a negotiable instrument.

I return you herewith the blank check enclosed.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

POWER OF GOVERNOR TO BORROW MONEY.

July 12, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

In reply to your request that I advise you as to your power to negotiate a temporary loan on behalf of the State, for the sum of one hundred thousand dollars, I beg leave to advise you as follows:

Section 213 of the Constitution provides a limitation upon the indebtedness of this State, but contains a further proviso—"provided the Governor may be authorized to negotiate temporary loans never to exceed three hundred thousand dollars, to meet the deficiencies in the treasury, and until same is paid no new loan shall be negotiated.'

Section 554 of the Code is as follows: "Should any deficiency occur in the treasury at any time, the Governor may ne-

gotiate temporary loans not to exceed one hundred thousand dollars, or so much thereof as may be necessary to supply such deficiency."

In view of the Section of the Constitution and the Section of the Code above quoted, I do not see that there can be any question but that whenever, in your opinion, there is a deficiency in the treasury which requires such loan, you are authorized to negotiate the same and to execute in the name of the State such note or other evidence of indebtedness as you may deem proper, to the extent of one hundred thousand dollars.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

HOTELS AND BOARDING HOUSES—LIABILITY FOR LICENSE.

July 2, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Replying to your request of recent date requesting my opinion upon the question as to whether or not Section 28 of the new revenue law (Acts 1911, p. 59) is applicable to hotels and boarding houses, I beg to advise you as follows:

There being no State license required of hotels generally, I am of the opinion that where a hotel operates a cafe or restaurant, and such cafe or restaurant is in the nature of a public eating house and not merely used for the use of its guests, that such cafe or restaurant comes within the provisions of Section 28 of the new revenue law. However, this section cannot be said to be applicable to boarding houses, and it has many times been held by the courts of this country that licenses required of inn keepers cannot be assesed against boarding houses not generally open to the public.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

GOOD ROADS INCORPORATED—LIABILITY FOR TAX FOR DOING BUSINESS IN THE STATE.

July 14, 1911.

Hon. C. S. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of the 11th inst., enclosing communication from Messrs. Arrington & Houghton, certificate or statement of Good Roads Incorporated, a corporation, and requesting me to advise you whether or not said corporation would be required by you to pay a franchise tax of twentyfive dollars for being permitted to do business in this State, received.

Sections 3647 and 3648 of the Code provides for the payment of a franchise tax by a foreign corporation which desires to engage in business in this State, and fix and determine the amount of license which shall be paid.

It appears that Good Roads Incorporated desires to be permitted to do business in Alabama, but states that it intends to employ no capital in this State.

The sections above referred to clearly indicate that the purpose of the Legislature was to impose a tax of twenty-five dollars upon Mutual Companies or other companies which have no capital stock, and to grade the tax upon those having capital stock in accordance with the amount to be employed in this State, and it clearly was never contemplated by the Legislature that any company without stock should do business in this State and not employ any capital therein, unless it be one without capital stock, in which case it fixed the tax at twenty-five dollars.

In starting the graduation of the tax at 20 per cent. of the capital employed in this State, where it is one hundred dollars or less, and then gradually increasing the amount of the tax according to the amount of capital employed, it is evident that the legislature intended that all companies doing business in Alabama should pay a tax in accordance with the provisions of this section, and that no company should be permitted to do business in this State without paying this tax, regardless of its character. So Good Roads Incorporated, not

intending to employ any of its capital in Alabama, must be treated by you as if it were a corporation without capital stock. and is therefore liable for the fee of twenty-five dollars.

I return you herewith the papers submitted to me.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ALABAMA NATIONAL GUARD—APPROPRIATION FOR.

July 15, 1911.

Hon. C. B. Smith
State Auditor,
Capitol.

Dear Sir:—

Yours of this date requesting me to advise you whether the quarterly allowance for the quarter ending June 30, 1911, payable to the commanding officer of the company, of the Alabama National Guard, under the provisions of Section 12 of the act of the legislature approved April 22, 1911, entitled an Act "To regulate and provide for the volunteer forces of the State of Alabama," should be sixty dollars as provided by said act, or fifty dollars as provided by a former law, received.

An examination of the statute shows that it was the Legislative intent and purpose that the increased appropriation should become immediately available, and available for the then current quarter.

I am therefore of the opinion, and so advise you, that company commanders should be paid the sum of sixty dollars as provided by the act above referred to, for the quarter ending June 30, 1911.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHERIFFS' FEES.

July 15, 1911.

Hon. C. L. Townes,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter of July 12, 1911, in which you ask me certain questions in reference to the sheriff's fees, received.

Your first question is, "Where a sheriff has kept no 'record of prisoners in jail,' has no mittimusses or other authority on file showing authority for commitment of prisoners to jail, and no orders of release, should he be required to refund to the State such amounts as he has collected for feeding prisoners, with interest thereon?"

In reply to this question, I beg to advise you that under the state of facts your question sets out, there would be no way of determining whether he has ever had a prisoner in the jail, legally confined therein, or not, and of course the sheriff is only entitled to be paid for feeding prisoners who are legally committed to his custody, and where there is no record of any kind which would show that he has had a prisoner legally placed in his custody, he could not collect from the State for feeding such person.

Your second question is, "Where a sheriff keeps no Fee Book, should he be required to refund to the State any amounts he may have collected for fees from the State in penitentiary cases with interest thereon, and to the county treasury any amounts collected from the county for fees in criminal cases with interest thereon?"

This question has been several times submitted to this office, and must be answered in the affirmative, for the provisions of the statute, Sections 3704 and 3705 of the Code, are so plain that they need no construction, and the sheriff collecting fees for a service not justified by a charge entered in his Fee Book, collects such fee without any authority of law, and should of course be required to return it.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PAUPERS NOT INMATES OF POOR HOUSE—APPROPRIATION FOR BY COUNTY.

July 15, 1911.

Hon. Chas. L. Townes,
Examiner of Public Accounts,
Moulton, Ala.

Dear Sir:—

Replying to your letter of July 12th, in reference to the power of the courts of county commissioners to make appropriations for the support of paupers not inmates of poor houses, I beg leave to advise you as follows:

Prior to the Code of 1907, which became operative May 1, 1908, the commissioners' courts or boards of revenue of the counties had authority to make such appropriation from the funds of the county for the support of the poor as they deemed right and proper.—

Code 1896, Section 958;
Henry v. Cohen, 66 Ala. 382.

Under the case last cited, the court of county commissioners was clothed with almost absolute power on this subject.

However, the legislature in the adoption of the Code of 1907, saw fit to add a chapter distinctively dealing with the subject of paupers, and it is provided by Section 1607 of the Code "The court of county commissioners, and in case of emergency, the commissioner of the district, may provide for the temporary relief of a pauper until he can be removed to the poor house, not exceeding one month." This section limits the broad and extensive powers which were once conferred upon the court of county commissioners and board of revenue to the giving of temporary relief for a period of not exceeding one month, after which time he must be removed to the poor house or their authority for caring for such pauper ceases.

There are, however, certain other cases as to the caring for insane poor to which the Code makes an exception. She Sections 1598-1617 inclusive, Code of 1907.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CLERKS' COSTS—TAX ASSESSOR AND COLLECTORS' NOTICES—SUPPLIES OF BLANK FORMS TO PROBATE JUDGES—BAILIFFS—WHEN ENTITLED TO COMPENSATION.

July 17, 1911.

Honu. J. T. Gorman,
Examiner of Public Accounts,
Opelika, Ala.

Dear Sir:—

On the 14th inst., you requested an opinion of me upon the following subjects:

(1) As to whether or not certain accounts presented by the clerk of the court for costs to be paid by Lee County were properly prepared and itemized, and whether or not such accounts could be allowed by the court of county commissioners;

(2) As to whether or not a charge for publishing notice of the places where the tax collector and tax assessor would be at certain times was a proper charge against the county.

(3) As to whether or not the judge of probate could properly charge this county with the payment of blank forms of mortgages, notes, etc., made out in the name of, or in favor of, certain named persons, firms or corporations.

Replying to your 1st question, I beg to say that where the county works convicts upon the roads, the county must pay the clerk's fees among the other costs. If the clerk's Fee Book shows the items to be correct, and that he is entitled to the fees set out in his account, I advise you that such items are proper charges against the county. In such cases, the clerk should present a regular itemized cost bill to the county, but if the amount is correct and the court of county commissioners has passed upon the item, it would be improper to charge such costs against the clerk.

Replying to your 2nd question, I beg to say that Sections 2103 and 2169 of the Code provide that the tax assessor and tax collector, respectively, must attend some place in each election precinct, in each county, and that they shall publish notice of the time and place at which they will appear in such precinct. I, therefore, advise you that under the above sections,

the tax assessor and tax collector have the right to charge the county with the publication of such notices.

Replying to your 3rd question, I beg to advise you that Section 542 of the Code of Alabama, which provides that the probate judge must be allowed suitable expenses for books, stationery, etc., to be paid by the county, contemplates stationery necessary to the ordinary uses within the office of the probate judge for the conduct of the business of the State and county, and that the probate judge is not authorized to charge the county with the cost of printing blank forms to be used by any private individual, firm or corporation.

On the 15th inst., you also submitted the following question:

"If the clerk of the circuit court issues certificates to more than three bailiffs for attendance upon court when no additional bailiffs have been summoned by order of the judge, entered upon the minutes, and these certificates are paid by the county treasurer, who is liable to the county therefor?"

The clerk being the officer of the court who has charge of the minutes, and who issued these certificates, must have issued them with knowledge that there was no order of the court entered upon its minutes authorizing the additional bailiffs, and therefore, in my opinion, he should be charged with this sum.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

TREASURER OF PUBLIC SCHOOL FUNDS—WARRANTS DRAWN IN FAVOR OF.

Hon. C. B. Smith, July 17, 1911.
State Auditor,
Capitol.

Dear Sir:—

Your letter of July 5th, in which you direct my attention to the Act approved April 18, 1911, entitled an Act "To provide for the office of county treasurer of public school funds in the several counties of Alabama, and to prescribe the duties thereof," received.

It is clear from a consideration of the act that it was intended by said act to place all of the public school funds of the State in the hands of the various county treasurers, and that by said Act it was intended to repeal Section 1772 of the Code, so far as it directs the payment of such moneys to the county superintendent of education.

I am, therefore, of the opinion and so advise you, that under the provisions of this act you, as State Auditor, would be authorized to draw your warrant on the State Treasurer in favor of the county treasurer of public school funds of each county, for the amount that may be needed for each monthly pay roll by the county treasurer of public school funds, upon his request and the approval of the State Superintendent of Education.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

HIGHWAY COMMISSION—RIGHT TO DELEGATE CERTAIN AUTHORITY TO CHAIRMAN.

July 17, 1911.

Hon. Robert E. Spragins,
Chairman State Highway Commission,
Montgomery, Ala.

Dear Sir:—

Replying to the letter of Hon. W. S. Keller, State Highway Engineer, of date July 10, 1911, advising me that the Commission desired my opinion upon certain matters, I beg leave to advise you as follows:

The Commission has no right to delegate to the Chairman of the Commission authority to approve the recommendation of the State Highway Engineer that a warrant for $2000.00 be issued from the State Treasury to any county when such county has complied with the requirements of the State Highway Law. This is a matter which must be determined by the Commission itself, and they have no right to delegate the power to determine this matter to anyone else. However, after it has been determined by the Commission, it is not necessary that

the entire Commission should sign the certificate provided under Section 14 of the act, but if the Chairman, in the name of the Commission and by its authority, should make the certificate, this would be sufficient, in my opinion, to authorize the Auditor to draw his warrant as therein provided.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PAYMENT OF DELINQUENT LICENSES—HOW ENFORCED —LIABILITY OF DENTISTS FOR LICENSE FOR 1911.

Hon. C. B. Smith, July 18, 1911.
State Anditor,
Capitol.

Dear Sir:—

On the 11th inst., you wrote me a letter enclosing a communication to you from the Tax Commissioner of Dale County, in which the Tax Commissioner propounded two questions to you. Your letter requested my advice upon the questions contained in the letter of the Tax Commissioner, and replying to your request, I beg to advise you as follows:

(1) That any person who has engaged in any business or used any articles in connection with his business, for which a license is due the State and county in which such business is carried on, is liable for the license prescribed by law, and the fact that he stops the use of this article and hides it out, cannot release him from liability, and it is the duty of the Tax Commissioner to comply with the requirements of Section 2245 of the Code of Alabama, which require him to report the delinquent to the judges of probate, who shall forthwith cite such delinquent to appear before him and take out the license required by law. If he fails or refuses to take out such license, criminal proceedings may be instituted against him under the provision of Section 7712 of the Code of Alabama.

Replying to the second question contained in the Tax Commissioners letter, I beg to advise you that the tax upon dentists, prescribed in Section 33½ of the new revenue bill, is a license tax on persons not hitherto required to pay a license tax, and became due thirty days after the approval of the

bill, and was delinquent ninety days after the approval of the bill. Where a license is taken out between the first of January and the first of July, the law requires a full year's license, and I therefore advise you that dentists are liable for the license tax for the year 1911, and that the methods prescribed in Sections 2245 and 7712 of the Code may be used toward the enforcement of this license tax.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FIRE WORKS—WHAT CONSTITUTES DEALING IN.

Hon. J. Lee Long, July 18, 1911.
Chairman Tax Commission,
Capitol.

Dear Sir:—

Replying to your letter of the 18th inst., requesting my opinion upon the question presented to you in a letter from Mr. D. J. Callaghan, Tax Commissioner of Mobile County, with references to the question as to whether or not a person who has since the enactment of the Revenue Bill had fireworks in his place of business and has made one sale thereof is liable for the tax required by Section 33 of the new revenue law, I beg to advise you as follows:

In order to constitute a person a dealer in fireworks, a single sale is not sufficient. It must be shown that a person buys with the intent to sell at a profit, as in ordinary course of business, and while one sale might be evidenced that a person is a dealer in, or carries on, a particular kind of business, still, one sale could not be said to constitute such person a dealer in that particular article.—

Weil v. State, 52 Ala. 19;
Overall v. Bezeau, 37 Mich. 506.

I return you herewith the papers enclosed in your letter with references to this matter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LICENSE OF AGENT FOR FOREIGN BREWERY—NOTICE OF APPLICATION TO EXCISE COMMISSION FOR LIQUOR LICENSE.

July 8, 1911.

Hon. Cyrus B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

Your letter of the 15th inst., in which you ask me to advise you upon certain questions in reference to my construction of Sections 12 and 14 of the act of the legislative approved April 6, 1911, known as the Smith Bill, received.

Your first question deals with the payment of a license by the agency of a brewery of another State doing business in this State, and you inquire to whom this license should be paid—whether to you, as Secretary of State, or to whom.

Section 12 of the Smith Bill provides: "The following license taxes shall be paid; * * * * Every agency of a brewery of another State doing business in this State shall pay an annual license tax of fifteen hundred dollars, and any person, whether retail dealer or not, selling the goods or product of any brewery of another State shall be deemed and held an agent thereof unless such brewery shall have an established agency in this State. * * * * * All license taxes shall be paid to the probate judge before the license certificate, which shall be evidence of the granting of the license, is issued. The certificate shall contain a receipt for said license fee."

From these provisions of the act, it is clear that the license tax therein imposed upon the agency of a brewery of another State doing business in this State should be paid to the probate judge of the county in which it is proposed to establish such agency.

Your second question calls for a construction of Section 14 of said act, dealing with the notice of an application for license to the excise commission provided for by said act.

The provision of said Section is, "That no application for a license shall be considered by the commission * * * * * * * * unless at the time of the application, or within three days thereafter a notice of such application shall have been

printed in a newspaper of general circulation in the city within which the licensee expects to do business, for two successive weeks before said application is heard." It is clear from the language of the act that the application cannot be heard and determined by the commission until the notice has been given for two successive weeks, as above provided. The words of the statute "and unless at the time of the application or within three days thereafter, notice of such application shall have been printed," contemplate that the notice must have been completed at the time of the application, or that if notice has not been given prior to the application, it must be given within three days after such application has been filed.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BRANCH BANKS—LIABILITY FOR LICENSE.

July 19, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Yours of the 18th inst., enclosing letter from Hon. Frank V. Evans, Examiner of Public Accounts, inquiring with reference to a corporation or license tax on branch banks, received.

Section 6 of the Act approved March 2, 1911, entitled an Act "To create a banking department for the State of Alabama, and through this department to regulate, supervise and examine banks and banking, and to punish certain prohibited acts relating thereto," provides among other things, "No assessment or license of any kind shall be levied against, or collected from, any bank or banking institution, as such, except ordinary taxes assessed against property in general," and also makes certain exceptions in favor of municipal licenses, and the tax provided by this section of the act is payable to the superintendent of banks.

By the provisions of Section 12 of the act approved March 31, 1911, entitled an Act "To further provide for the revenues of the State of Alabama," it is provided "that the provisions of this sub-division shall not apply to banks and banking institutions," so it is clear that the banks inquired about in the letter of Mr. Evans are neither required to pay a corporation or license tax.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FEES OF PROBATE JUDGE FOR REPORTING MARRIAGES—FEES OF REGISTRAR FOR REPORTING DIVORCES.

July 20, 1911.

Hon. W. H. Sanders,
State Health Officer,
Capitol.

Dear Sir:—

Upon the 15th inst., you submitted to me by letter, the question relative to the constitutionality of increase in fees provided for by Sections 5 and 6 of the Act of the Legislature approved March 15, 1911, General Acts 1911, p. 116.

The two sections referred to in your letter are in the nature of amendments to the Code of Alabama, amending Sections 730 and 731 of the Code. These sections refer to the duty of the probate judge with reference to reporting marriages in his county, and with reference to the duty of clerks and registers of courts having equity jurisdiction, in reporting the records of divorce granted by their courts.

The duties prescribed by Sections 5 and 6 of the Act of March 15, 1911, are practically the same as the duty imposed by such officer in Section 730 and 731 of the Code; if there is any difference, the latter enactment diminishes rather than increases the duty imposed by these officers by the Sections of the Code above mentioned.

However, Section 5 of the Act of March 15, 1911, provides for a fee of twenty-five cents, payable to the probate judge,

for each marriage reported, and Section 6 of this act provides for a fee of fifty cents, payable to the register or clerk, for each divorce reported; under the Code Sections above mentioned, these officers were not entitled to any fee for the services required. The question then arises, is the enactment of th legislature violative of the constitutional provisions against increasing the compensation, fees or allowances of officers, during their term of office. Section 281 of the Constitution is as follows: "The salary, fees or compensation of any officer holding any office of profit under this State or any county or municipality thereof, shall not be increased or diminished during the term for which he shall have been elected or appointed." Section 68 of the Constitution is to the same effect, it being a restriction upon the right of the legislature to pass any law increasing the compensation of any public officer. The act here in question clearly comes within the inhibition of the two sections above quoted. It is an attempt to grant increased compensation to certain officers during their term of office, for performing the same services that were required of them at the time of their election or appointment to office.

Moore v. Nation, 103 Pacific Rep. 107.

I, therefore, advise you that no probate judge nor register nor clerk of any court of equity. who was in office at the time of the approval of the act of March 15, 1911, is entitled to the fee provided by this act, during the term of office that he was holding at the time this act became effective. Any one of these officers elected or appointed for a term of office beginning since this act became effective, would be entitled to the fees provided for within the Section of the Act above referred to.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BOTTLERS NOT LIABLE FOR PEDDLER'S LICENSE.

July 22, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Opelika, Ala.

Dear Sir:—

Your letter of the 20th inst., inquiring in reference to whether or not certain bottlers who have paid their bottling license, but deliver their goods from their own wagons and sell goods therefrom, are liable for a peddlers license, received.

In reply, I beg to advise you that under the facts stated, such bottling works are not liable for peddlers' license.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CORPORATIONS—LIABLE FOR FRANCHISE TAX.

July 22, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Opelika, Ala.

Dear Sir:—

Your letter of the 21st inst., requesting me to advise you as to whether corporations not engaged in business but never having been dissolved, are subject to the payment of license, received.

A corporation not engaged in business is, of course, not liable for any tax imposed upon the business or upon persons engaging in the business, however, it is liable for the franchise tax imposed under Section 12 of the Act of March 31, 1911, entitled an Act "To further provide for the revenues of the State of Alabama," for the reason that the franchise tax there imposed is a tax upon its right to exist as a corporation, and not a tax upon the business in which it is engaged, and the corporation has a right to exist, and does exist, until legally dissolved.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LIGHT AND WATER COMPANIES—LIABLE FOR FRANCHISE.

July 24, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Opelika, Ala.

Dear Sir:—

Your letter of the 22nd inst., in which you inquire whether electric light and water works companies paying a license of fifteen dollars, in cities of under 5000 population, are subject to the franchise tax under Section 5 of the revenue bill, received.

In reply, I beg leave to advise you that such corporations are liable for the franchise tax imposed by Section 12 of the revenue bill, being the act entitled an Act "To further provide for the revenues of the State of Alabama," approved March 31, 1911, Acts 1911, p. 159.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

MINE WORKERS.

July 26, 1911.

Hon. C. H. Nesbitt,
Chief Mine Inspector,
Chamber of Commerce Building,
Birmingham, Ala.

Dear Sir:—

Your letter of the 24th inst., in which you ask me to define the term "mine worker" as used in Section 22 of an Act approved April 18, 1911, entitled an Act "To regulate the mining of coal in Alabama," received.

In reply, I beg to advise you that I can find nothing in said section which shows that the term "mine worker" is used in any other than its ordinary acceptation among those who are engaged in operating mines or working mines.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CONSTABLE—FEES OF—JUSTICES OF JEACE—WITHOUT AUTHORITY TO REMIT FINES.

July 27, 1911.

Hon. H. Y. Brooke,
Examiner of Public Accounts,
Birmingham, Ala.

Dear Sir:—

Your letter of the 21st inst. received.

In reply, I beg to advise you that a constable making an arrest without a warrant is making a legal arrest, and the constable should be entitled to his fee upon compliance with the provisions of Section 6270 of the Code.

The only provision of law by which a fine may be remitted, is found in Section 7629 of the Code, which by its terms can only apply to fines assessed by juries. This section cannot apply to justices of the peace, and I am therefore of the opinion, and so advise you that a justice of the peace has no authority to remit a fine.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LUNACY PROCEEDINGS—FEES OF PROBATE JUDGE IN.

July 28, 1911.

Hon. Frank V. Evans,
Examiner of Public Accounts,
Russellville, Ala.

Dear Sir:—

Yours of the 27th inst., in reference to the fee of probate judges in lunacy proceedings, received.

From your letter it would appear that the probate judge charges a fee of $5.00 in all proceedings before him to have persons declared of unsound mind, whether a guardian is appointed or not, where the patient is committed to the hospital, and you desire me to advise you whether this charge of $5.00 is a proper charge under the provisions of Section 3720 of the

Code, the provisions bearing upon this subject being as follows: "Services rendered in proceedings to have persons declared of unsound mind, and appointing guardian for them, $5.00.

The appointment of a guardian is an incident of the proceedings, and is so regarded in fixing the costs. The words "and appointing guardian for them" are simply used as an additional precaution, to prevent any charge for the appointment separate and apart, but the whole matter is one service, and where the services are rendered, the fact that the particular case does not require all the details generally attendant, cannot be allowed to defeat the judge of his right to compensation.

I am therefore of the opinion, and so advise you, that under the circumstances stated, the judge of probate is entitled to a fee of $5.00.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

August 8, 1911.

Hon. Frank V. Evans,
Examiner of Public Accounts,
Russellville, Ala.

Dear Sir:—

Your letter of August 2nd, in reference to the fee of probate judges in lunacy matters, received.

The fee allowed the judge of probate for services in lunacy proceedings, is not a fee which in any manner can be charged against the county. It is a fee which must be charged either against the estate applicant to have the person declared insane, or against the unsuccessful applicant to have the person declared insane.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BOARD OF REGISTRARS—MEETINGS OF.

July 31, 1911.

Hon. C. B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

Your letter of this date requesting that I advise you whether the Board of Registrars are required to meet on the Friday and Saturday preceding an election called to be held under the provisions of the recent Act of the Legislature known as the Parks Local Option Law, received.

In reply, I beg leave to advise you that in my opinion the Board of Registrars is required to meet at the Court House of each county on the Friday and Saturday next preceding such election, as provided by Section 6 of an Act approved November 23, 1907, entitled an Act "To further regulate elections in the State of Alabama."

In this connection, I wish to call your attention to the fact that on March 12, 1909, my predecessor in office, Hon. Alex M. Garber, in passing upon a similar question, reached the conclusion as above stated, saying, "It appears that the Legislature has manifested in Section 6 a purpose to afford a certain class of persons an opportunity to register on Friday and Saturday next preceding the day of each special election."

I am therefore of the opinion, and so advise you, that the Boards of Registrars are required to meet on the Friday and Saturday next preceding any election called to be held under the provisions of the Act known as the Parks Local Option Law.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

DEALERS IN PISTOLS, RIFLES, ETC.—LIABLE IN EACH COUNTY IN WHICH BUSINESS IS CARRIED ON.

July 31, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of this date enclosing letter from Col. O. P. Gault, requesting me to advise you thereon, received.

From the letter of Col. Gault, it would appear that the hardware company to which he refers has places of business in Elmore, Chilton and Tallapoosa Counties, at which they sell pistols, rifles, etc., upon which a tax is imposed by Section 22 of the Act entitled an Act "To further provide for the revenues of the State of Alabama, approved March 31, 1911, Acts, 1911, p. 59.

In my opinion, they are liable for the tax—both State and County, in each county in which they do business. I return you herewith the letter of Col. Gault.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

WHOLESALE LIQUOR DEALER CANNOT BE AGENT FOR FOREIGN BREWERY.

August 1, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Yours of the 31st ult., enclosing letter from Dr. A. H. Montgomery, Chairman Montgomery Excise Commission, and requesting that I give you my opinion upon the matters presented by Dr. Montgomery's communication, received.

Dr. Montgomery desires to know whether a party to whom a license as a wholesale liquor dealer is issued can at the time be the established agent for a foreign brewery doing business in Alabama.

From Dr. Montgomery's letter it is evident that the agent about which he inquires is not the agent for services under the general laws requiring foreign corporations engaging in business in this State to file with the Secretary of State a designation of some resident of this State as an agent upon whom process may be served, but that he refers to the agency of a brewery required to pay the license tax of fifteen hundred dollars under Section 12 of the Act known as the Smith Bill. Section 15 of the Smith Bill provides that "No more than one license shall be issued to the same individual, firm or corporation during any one year, and when the license is issued it shall carry the right to conduct the business only in the place which the applicant has specified in his application."

By Section 12 of said bill, a license is required from a wholesale dealer, and also a separate license from the agency of a brewery of another state, and to permit one person to hold both licenses would be in plain violation of the provisions of Section 15 of the bill above quoted.

In addition to the plain provisions of Section 15 of the bill, an examination of the Act shows that it was evidently the legislative purpose and intent to separate all branches of the liquor traffic and not to permit any combination of the different branches.

I am, therefore, of the opinion, and so advise you, that a person cannot during the same year be issued a license as a wholesaler dealer in liquors and a license as an agency of a foreign brewery doing business in this State.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY MAY CONTRACT FOR FERRY ACROSS RIVER.

August 2, 1911.

Hon. Charles L. Townes,
Examiner of Public Accounts,
Guntersville, Ala.

Dear Sir:—

Your letter of August 1st, in which you submit to me the following proposition, received:

"Marshall County has been operating a ferry across Tennessee River at Gunter's Landing for some four or five years, purchasing gasoline and ferry boats, paying for the gasoline and the repairs of said boats and hiring parties to operate same, paying for all this out of the County Treasury, and now they have contracted for the operation of this ferry for a period of three years and pay for its operation the sum of $100.00 per annum. The party contracted with furnishes the boats, gasoline and all the material needed for the above amount, no toll or ferriage is charged except after sun-down and before sunrise and Sunday travel and all non-resident travel is charged, and in addition to the $1800.00 the party contracted with gets this and the county has nothing to do with the collection of this and the party contracted with may or may not charge this, as he chooses. Has the county this authority and if so, is it a proper charge against the Road and Bridge Fund of the County?"

I am of the opinion, and so advise you, that under Sections 3023 and 3024 of the Code, the County has authority to make this contract, and it is a proper charge against the Road and Bridge Fund of the County.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY MAY ISSUE INTEREST BEARING WARRANTS FOR ERECTION OF JAIL.

August 8, 1911.

Hon. Charles L. Townes,
Examiner of Public Accounts,
Gunterville, Ala.

Dear Sir:—

In reply to your favor of the 4th inst., asking the Attorney General's advice with reference to the issuance by the court of county commissioners of interest bearing warrants to pay for the erection of a jail in Marshall County, upon referring to the opinion formerly given Judge Wilkinson on this question, I

beg to advise you that the court of county commissioners has authority to issue such a warrant for the purpose of paying for the construction of a court house or jail. The opinion given Judge Wilkinson was to the effect that the court of county commissioners had no authority to issue interest bearing warrants for the purpose of building roads and bridges, their authority with reference to this subject being entirely different from that with references to the construction of jails and court houses.

I beg to advise you, therefore, that the court of county commissioners has authority to issue interest bearing warrants to pay for the construction of a jail.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LOCATION OF BAR ROOM.

August 14, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Yours of the 12th inst., enclosing communication from Mr. John C. Spraggins, Chairman Tuscumbia Excise Commission, received.

From Mr. Spraggins' letter, it would appear that a license has been granted by the Tuscumbia Excise Commission to open a bar in a hotel on 5th street; that on one side of the room in which the bar is located there is a door entering direct from the hotel lobby, and on the other side a door entering or opening direct into a pool room. The question presented, is whether the bar, being in a hotel, may have an opening into a pool room in addition to the opening into the hotel lobby.

Section 27 of the Act known as the Smith Bill, provides that "It shall be unlawful for any person holding a license authorizing the sale of the liquors defined in this act in quantities

of less than one quart to sell the same in a room not wholly separated or disconnected from any other business or place of business except hotels and restaurants, in which the sale of such liquors is authorized." An examination of the entire act will make it clear that the exception of the room in which the sale of liquor is authorized, when that room is a part of a hotel and restaurant, is made for the purpose of allowing access from the hotel and restaurant to the room where liquors are sold, and not for the purpose of removing all restrictions from the room in the hotel or restaurant in which such liquors are authorized to be sold.

I am, therefore, of the opinion, and so advise you, that the opening or door leading from the room in which liquors are to be sold, into a pool room, is an illegal opening, and that liquors cannot be lawfully sold in such room unless said opening is closed.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY MAY APPROPRIATE MONEY TO AID IN LOCATING NEW SOURCE OF WATER SUPPLY IN COUNTY SEAT WHEN OLD SOURCE IS SUSPECTED OF CONTAMINATION.

August 14, 1911.

Hon. C. L. Townes,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter of this date, in reference to the appropriation by the County of Madison of a part of its revenue for the purpose of assisting in locating the source of the water from the spring in Huntsville, received.

From your letter it would appear that the spring is the sole source of supply for drinking, bathing and cooking water in the City of Huntsville, and also the sole source of supply of water for citizens of the county outside of the City of Hunts-

ville, when in Huntsville, and that the water is supposed to have become in some way contaminated so as to render persons drinking it liable to typhoid fever.

This condition is one affecting the public health, and in my opinion, is one which the county may properly aid in remedying, and the use of the county funds for this purpose is a proper and legal use thereof.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PROSECUTIONS FOR VIOLATIONS OF HEALTH LAW.

August 14, 1911.

Dr. W. H. Sanders,
State Health Officer,

In reply to your favor of the 14th inst., asking whether or not certain prosecutions can be begun before a justice I beg to advise you as follows:

Prosecutions against persons who practice medicine without a license or who violate any of the provisions of Article 1, Chapter 228 of the Code, relating to Health and Quarantine, must be finally conducted in the county court, or in the circuit court or court of like jurisdiction. These prosecutions may be conducted in the county court upon affidavit and warrant, but in the circuit court or city court an indictment is necessary. A justice of the peace has no final jurisdiction of these offenses, but, upon affidavit and warrant he may exercise the jurisdiction of a committing magistrate by binding over the defendant to await the action of the grand jury.

I beg to enclose herewith the additional forms for instituting prosecutions for violations of Health Laws.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ORDER OF LIONS—SUBJECT TO SUPERVISION INSURANCE DEPARTMENT.

August 14, 1911.

Hon. C. B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

Your letter of this date enclosing copy of Articles of Incorporation and Constitution of the Supreme Den of the Order of Lions, and asking my advise as to whether this organization comes under the operation or control of what is known as the Fraternal Insurance Statutes passed by the last session of the Legislature, received.

In reply, I beg leave to advise you that in my opinion, such society clearly comes within the provisions of the act entitled "An Act for the regulation and control of Fraternal Benefit Societies," approved April 24, 1911, Acts 1911, pp. 700, and must be regulated and controlled by your department in accordance with the provisions of said act.

I return you herewith the papers sent me.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SALE OF LIQUORS ON DINING CARS ILLEGAL.

August 14, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Yours of the 12th inst., enclosing letter from Dr. A. H. Montgomery, Chairman of the Montgomery Excise Commissioni, in reference to the serving and sale of drinks on dining cars running through this State, received.

After an examination of the law, I am of the opinion and so advise you that the sale of intoxicating liquors and bever-

ages on dining cars in this State cannot be authorized, and any such sale would be illegal.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SALE OF BONDS BY FOREIGN CORPORATION.

August 15, 1911.

Hon. C. B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

On the 31st. ult. you handed me a letter from Mr. John W. Burton, an attorney of Arcadia, Fla., and requested me to advise you whether a foreign corporation selling its bonds within the State of Alabama would be required to comply with the laws of Alabama before doing this kind of business within the State.

From the letter enclosed to me from Mr. Burton, I was unable to understand definitely the kind of business that the Florida corporation intended to do within the State, and at your suggestion took the matter up direct with Mr. Burton, and am informed by him that the Florida company is interested in the development of certain lands in the State of Florida, and is authorized to issue and sell bonds for the purpose of the development of this land, and that the corporation desires to send its agent into the State of Alabama with a view of selling these bonds to citizens of this State.

After a careful investigation of the question arising, I am of the opinion that the sale of these bonds would not constitute doing business in the State of Alabama in the sense that it would be such a business as would require the foreign corporation to comply with the laws of this State.

I return you herewith Mr. Burton's letter to you.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FORM OF BALLOTS IN ELECTIONS UNDER PARKS BILL.

August 15, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter requesting me to advise you as to the proper form of ballot to be used in an election held under the Act approved February 21, 1911, known as the Parks Bill, Acts 1911, p. 26, to determine whether or not the manufacture and sale of spirituous, vinous or malt liquors shall be legalized in a county, received.

I have carefully examined the Act, and find the provisions as to the ballot and what it should contain are embraced in Sections 6 and 9 of said Act. The questions of Section 6, so far as pertinent, are as follows:

In elections authorized under this Act, submitting the question of legalizing the manufacture and sale of said liquors, the issue shall be, (1) whether or not such manufacture and sale shall be permitted, and (2) if permitted, whether the sale shall be by dispensary or by private dealers under a license. The ballot issued in such an election should have printed thereon such phraseology as will enable each voter to express intelligently and clearly his choice on each issue to be voted upon, by making a cross mark opposite certain of the phrases so printed upon the ballot, and the choice of the voter shall be so expressed.

The provisions of Section 9, so far as pertinent, are, "That the judge of probate, sheriff and circuit clerk, shall in open session five days after the election, count the returns so made, and under oath make a written declaration of the result of the election in the county, showing the number of votes cast at each voting place for legalizing the manufacture and sale of said liquors, and the number of votes cast against legalizing the manufacture and sale of said liquors, and the number of votes cast for dispensary, and the number of votes cast against dispensary, the number of votes for license and the number of votes cast against license."

In your communication you submit to me two forms of ballot, one of which is as follows:

"Shall the manufacture and sale of Spirituous, Vinous, or Malt Liquors Be Permitted in_____County, Alabama?

1_____*Yes.*
2_____*No.*

If permitted, shall the sale be by dispensaries or private dealers under a license?

1_____*Dispensaries.*
1_____*Private Dealers Under a License."*

The other form is as follows:

"Shall the manufacture and sale of Spirituous, Vinous, or Malt Liquors Be Permitted in_____County, Alabama?

_____*Yes.*
_____ *No.*

If the sale of such liquors be permitted, shall such sale be by—

Dispensary
_____*Yes.*
_____*No.*

Or by—

Private Dealers, (under a license)
_____*Yes.*
_____*No.*

In my opinion, while the first form of ballot as indicated above, would comply with the provisions of Section 6 of the Parks Bill, it would not also comply with the provisions of Section 9 of the Bill, for the reason that if the form first above quoted was used, it would be impossible for the canvassers of the election to certify "the number of votes against dispensary, and the number of votes against license, so required by the provisions of Section 9 of the Parks Bill."

I am therefore of the opinion, and so advise you, that a ballot substantially the same as that of the second form above quoted, should be used.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ASSESSMENT—OWNER UNKNOWN—ABSTRACT OF TAXES —TOTALED AND ADDED BY PROBATE JUDGE.

August 16, 1911.

Hon. Charles E. McCall,
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter in which you ask me certain questions, received.

Your first question is: "Where an assessor has made an assessment to 'owners unknown,' without having given notice to the last known owners, and the tax collector has filed with the probate judge a list of such assessed lands, and the probate judge has given notice by publication as required by law—and it is then discovered that these assessments are errors, is the assessor responsible for the cost, officers' fees and printers' fee?"

In anwer to this question, I beg to advise you that under the circumstances named, the assessor is liable for such costs, for the reason that they are incurred by his failure to comply with the provisions of Section 2118 of the Code, which, so far as pertinent, is as follows: "But no lands shall be assessed to 'owner unknown' until the assessor shall have made a demand upon the person, if resident in the county, or by registered mail of a non-resident whose address is known, to whom said lands or property were assessed, in the event said lands or property have been assessed, and said assessor shall make diligent inquiry to ascertain the name of the owner of said lands or other property."

Your second question is: "The probate judge is required to furnish the tax collector with an abstract of the taxes as shown by the Book of Assessments. In preparing this abstract, some of the probate judges do not add the taxes or give to the collector, a total. To be a complete abstract, should not this abstract book be added by the probate judge?"

Section 2158 of the Code provides for the delivery by the probate judge, to the tax collector, of an abstract of the taxes, and provides his compensation therefor. Its language as to what the abstract must contain is as follows: "* * * the amount of taxes assessed against each tax payer, showing separately the amount of taxes on real estate and personal property, and other subjects of taxation, and the fees of the assessor, with a blank for the fee of the collector."

Section 2156 requires that after the Book of Assessment has been found correct and allowed by the Commissioners' Court, the presiding officer of such court shall certify the amount of the State taxes is to be * * * *dollars; the amount of the county taxes * * * * dollars; the amount of the special tax * * * *dollars, and that such certificate shall be the warrant of the tax collector of the county to proceed to collect such taxes in the manner prescribed by law.

Construing these sections together, it would seem to be necessary that the abstract furnished by the probate judge to the collector should be totaled so as to correspond with the total shown by Section 2156, and in this way, the correctness of the abstract furnished by the probate judge could be ascertained.

Therefore, construing the two questions together, I am of the opinion, and so advise you, that the abstract book should be added and totaled by the probate judge.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SALARIES OF EXCISE COMMISSIONERS.

August 17, 1911.

Hon. John Purifoy,
State Treasurer,
Capitol.

Dear Sir:—

Your letter of August 16th, requesting me to advise you as to the payment of salaries of Excise Commissioners, under the provision of Section 5 of the Act approved April 6, 1911, known as the Smith Bill, received.

So much of Section 5 of said Act as is pertinent to your inquiry, is as follows:

> "The probate judge of the county in which such city or town is located, collecting the money for the licenses authorized by this Act, shall deduct from the first moneys received in each year from said taxes, the sum of nine thousand five hundred dollars in cities of Class 'A'; the sum of seven thousand seven hundred fifty dollars in cities of Class 'B'; the sum of four thousand six hundred fifty dollars in cities of Class 'C', and the sum of seven hundred dollars in cities of Class 'D', which said sums of money shall be paid over by the probate judge to the Treasurer of the State of Alabama as a special fund out of which the salaries hereinabove provided for said Excise Commissioners and clerks, shall be paid in equal monthly installments, as the salaries of other State officials are paid."

While it is true that the title of the act does not specifically mention any appropriation for the payment of the salaries of Excise Commissioners, a portion of the title of the Act is as follows:

> "To provide for the creation of an Excise Commission in such cities or towns in which the manufacture and sale of liquors are authorized as herein provided, and the powers and duties of said Excise Commissioners."

From this it will be seen that the office of Excise Commissioner is provided for in the Act.

The Supreme Court has often had Section 45 of the Constitution before it for construction, and while it has laid down certain general rules by which the provisions of an Act must be tested to determine whether they came within the title, in the last analysis, the title and the provision of each Act must be construed by and for themselves.

The title of this act, making the provision for the establishment of the Excise Commission, and prescribing its powers and duties, I am of the opinion that an appropriation providing payment therefor would be valid under the provisions of Section 5 of the Constitution.

This provision for the payment of Excise Commissioners might also be sustained upon the theory that it is not an appropriation of public fund, but is the setting aside of a trust fund, of which, you, in your official capacity are simply made Trustee, with certain active duties to perform in the carrying out of the trust.

You also requested me to advise you whether or not probate judges deduct the entire sum provided for the payment of Excise Commissioners under Section 5 of said Act for this year, or only half of that sum, in view of the fact that no licenses were issued in the State of Alabama prior to the first day of July of this year.

The provisions of this Act for the deduction of the sums mentioned in said Section of the Act by the probate judges, was simply for the purpose of providing a fund out of which the Excise Commissioners and their clerks could be paid. To permit a deduction of the full amount for this year would leave a half year's compensation which could not be used for the purposes specified in the Act, and it is clear from an examination of the Act, that the only purpose for which a deduction is to be made, is to pay the salaries of such commissioners and clerks.

I am, therefore, of the opinion, and so advise you, that judges of probate should deduct but one-half of the sum specified in Section 5 of the Act, for the current year, and should remit that half to you, to be paid out by you in accordance with the provisions of the Act.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

AGENCY OF FOREIGN BREWERY—FORM OF LICENSE TO ISSUE.

Hon. Emmet O'Neal, August 19, 1911.
Governor,
Capitol.

Dear Sir:—

Replying to the question submitted to me by you and propounded to you by the Mobile Excise Commission, relating to the license required to be taken out by an agent of a foreign brewing corporation, I beg to advise you as follows:

That Section 12 of the Act approved April 6, 1911, known as the Smith Bill, provides that "Each agency of a brewery of another State doing business in this State shall pay an annual license tax of fifteen hundred dollars, and any person whether retail dealer or not, selling the goods or products of any brewery of another State, shall be deemed and held an agent thereof, unless such brewery shall have an established agency in this State."

The question propounded by the Excise Commission seems to be a request for advice as to the form of application and character of license for persons conducting such agency, and I suggest that the application and license should be worded so as to show that it is an application for the brewery agency license provided for in Section 12 of the Act, and the license should show that it is issued to some qualified person (naming him) to conduct an agency of a certain foreign brewery, naming it, within the city or town wherein the agency is to be conducted. The license is to be issued to the person as the agent of the foreign brewing corporation.

However, I have previously advised you, at your request, that under the provisions of the Smith Bill, no two licenses can issue to one person, and you will therefore see that no person holding a wholesale liquor dealers' license can also obtain a license as the agent for a foreign brewing corporation.

I enclose herewith copy of my former letter to you, covering this subject.

I return herewith the papers handed me in regard to this matter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

AUTOMOBILES—LICENSE UPON.

August 23, 1911.

Hon. C. B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

Your letter of the 21st inst., enclosing letter from Dr. B. M. Kendrick, of Luverne, in reference to the liability of automobiles used for hire which have paid the license imposed by Sub-division 2a, of Section 2361 of the Code, for the year 1911, to the tax provided by Section 7 of the Act approved April 22, 1911, known as the Automobile Law, Acts 1911, p. 634, received.

Sub-division 2a, of Section 2361, was in effect on the first day of January, 1911, and any person who kept for hire or rent any automobile, was liable to a license tax as imposed by the provision of that section.

By Section 9 of the Automobile Law above referred to, it is provided that the registration fees imposed by that act should be in lieu of all other privilege licenses; and by Section 38 of said Act, all laws in conflict with the act are repealed; and by Section 37½ of the Act it is provided that the fees provided for by the Act shall become due and payable on the first day of October, 1911.

Section 38 of the Automobile Law, therefore, of necessity, works a repeal of sub-division 2a, of Section 2361 of the Code, and under Section 37½ of the Automobile Law, it will be necessary that each motor vehicle used for public hire in transporting passengers or freight, shall pay on that day, the sum of twenty-five dollars, as provided by Section 7 of the Automobile Law—this without regard to whether or not a license has been previously paid for the year, under the provisions of sub-division 2a, of Section 2361 of the Code.

There is no provision of law for the refunding of any portion of the license heretofore paid, under Sub-division 2a, of Section 2361.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FERTILIZER—SAMPLES OF—HOW TAKEN.

August 23, 1911.

Hon. R. F. Kolb,
Commissioner of Agriculture and Industries,
Capitol.

Dear Sir:—

Your letter of this date in reference to receptacles used in taking samples of fertilizer, received.

While the Code Section 43 uses the word "bottle," I think the word "bottle" there used is merely directory and not mandatory, and that any other receptacle which would hold eight ounces as provided in this Section would be sufficient compliance with the provisions of the Section.

I am further influenced in this opinion by the fact that Mr. Webster, in his unabridged dictionary, after defining the word "bottle," says " 'bottle' is now so loosely used that its limit of application is not well defined."

While the receptacle which you send me is not strictly speaking, a bottle, I am of the opinion that it sufficiently complies with the provisions of the law above referred to.

I return you herewith the receptacle sent me.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LICENSE FOR SALE OF LIQUORS—COMPENSATION OF PROBATE JUDGE FOR ISSUING.

August 26, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

On the 24th inst., you submitted to me, for my opinion, questions presented to you in a lettter from the Probate Judge of Montgomery County. The question involved, relating to the allowance or compensation allowed the Probate Judge for receiving and disbursing license under Section 12 of the Act

approved April 6, 1911, known as the Smith Regulation Bill. This section of the above named act provides that the Probate Judge shall be entitled to retain one per cent of the license money received by him under the provisions of this Act. Section 2408 of the Code of Alabama, of 1907, provides that the Probate Judge is entitled to 2½ per cent commission on all licenses collected by him.

Sections 68 and 281 of the Constitution of Alabama, contain inhibitions against the increase or decrease in the compensation, salaries, allowances, etc., of public officers during the terms for which they shall have been elected or appointed, and the question remains: Can Section 12 of the Smith Regulation Bill, allowing a commission of 1 per cent, be applicable during the present term of Probate Judges who were in office at the time of the approval of the said Act?

Similar provisions in other State Constitutions have been many times construed by the different Courts of this country, and there is some authority for the theory that an officer whose term of office begins before the enactment of a statute creating new duties and allowing compensation therefore must perform the duties but is not entitled to the compensation allowed.

James v. Duffey, 131 S. W. (Ky.) 489.

However, the weight of authority seems to favor the rule which appears to my mind to be the most logical theory—that where the compensation of an officer is in the nature of fees or commissions, the Legislature may impose new duties upon such officer and may provide for compensation to that officer, even though he is in office at the time of the legislative enactment, and that it is within the discretion of the Legislature, when they impose entirely new duties upon an officer, to fix the amount of the fee or commission as it sees fit, or to omit the fee or compensation altogether.

San Luis Obispo v. Felts, 37 Pa. (Calif.) 708;
Throop on Public Officers, Section 468.

The question presented here seems to come within the provisions of the case last above cited, for at the time of the

election of the present incumbents of the office of Probate Judge, and at the time of their entrance upon the duties of the office, no licenses for the sale of liquors could be issued within this State, and Section 12 of the Smith Regulation Bill imposes upon the Probate Judge entirely new duties from those required at the time of their election, and I am of the opinion that it was within the discretion of the Legislature to fix the compensation to the Probate Judges for issuing this new license or performing this new duty required of them.

Nor can it be said that the provisions of Section 2408, allowing a 2½ per cent commission, should extend to all licenses then in force or hereafter to be issued by the Probate Judge, for it has been held by the Supreme Court of this State that under a similar provision of law, such a general enactment would be applicable to subsequent legislation, where the Legislature did not fix a definite compensation in the act creating the new office or new duty, but that it was entirely competent for the legislature to provide within the new act a definite amount of compensation for the new officer or new duty.

Brandon v. State ex rel Askew, 54 So. Rep. 605.

I, therefore, advise you, that for issuing licenses and disbursing the money under the provisions of Section 12 of the Act approved April 6, 1911, known as the Smith Regulation Bill, the Probate Judge is entitled to retain 1 per cent of the amounts collected by him for such license, as his commission.

I return you herewith the papers handed me with reference to this matter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

HEALTH LAWS—VIOLATION OF.

Hon. W. H. Sanders, August 30, 1911.
State Health Officer,
Capitol.

Dear Sir:—

On the 28th inst. you submitted to me, for my opinion, the question as to the method of procedure in prosecuting a person

who within this State has obtained by fraud a certificate of qualification to practice medicine, from the State Board of Medical Examiners.

The facts as stated in your letter seem to make out a clear cast of violation of Section 7564 of the Code of Alabama, and the fact that he holds a certificate issued in his name cannot be a defense to an indictment under this section, for the evidence would show under the facts as stated by you, that the certificate was not in fact issued to him, but was issued to another person who made use of the holder's name.

Furthermore, I am of the opinion that under Section 1637 of the Code, the State Board of Medical Examiners would be authorized to revoke this certificate under that provision, which grants this authority when any physician is guilty of grossly immoral or unprofessional conduct.

Within the provisions of Section 1628 of the Code this man might also be convicted of the crime of subornation of perjury. You will note that under this section, the applicant is required to make affidavit that he is the person he represents himself to be, and if that proof can be strong enough to show that this person procured the applicant with the idea of making him sign such an affidavit, he would not only be guilty of fraud and practicing medicine without license, but also of the crime of subornation of perjury, within the provisions of Section 1543 of the Code of Alabama, and upon conviction would be sentenced to the penitentiary for a term of not less than two, nor more than five years.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

EXCISE COMMISSIONERS—SALARY OF.

Hon. C. B. Smith, August 31, 1911.
State Auditor,
Capitol.

Dear Sir:—

Your letter of this date in regard to the commencement of the salaries of Excise Commissioners and clerk of such commissioners, received.

In reply, I beg to advise you that such commissioners only became officers from the date of their commission and can only draw pay from the day on which they were commissioned, while the clerk is not a commissioned officer, and his salary should begin from the date of his appointment to the office.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PARKS AND SMITH BILLS—EFFECT UPON CARMICHAEL AND FULLER BILLS.

September 2, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter of this date requesting me to advise you whether in my opinion the Carmichael and Fuller Bills are in effect in a county which has voted under the provision of the Parks' Bill for the sale of liquor by saloon under license, during the period between the ascertainment and certification of the result of such election and the period when licenses are issued authorizing the sale of liquors in accordance with the provisions of the Bill known as the Smith Regulation Bill, received.

The Bill known as the Parks' Bill provides for an election to determine whether a county will authorize the sale of liquors, and if so, in what form, and thereafter the Bill known as the Smith Regulation Bill, prescribes how liquors may be sold when authorized at the election held under the Parks' Bill.

The Carmichael and Fuller Bills were the law of this State prohibiting absolutely the sale of liquors at the time of the enactment of the Parks and Smith Bills.

The election held under the Parks Bill simply authorizes the sale in the county when licenses have been issued in accordance with the provisions of the Smith Bill. These two bills are interdependent, and the issuance of licenses under the provisions of the Smith Bill is a necessary condition prece-

dent to the authorized sale of liquors in any county in this State.

To hold that after the certification of the result of an election the Carmichael and Fuller Bills were repealed so far as that county was concerned, when according to the provisions of the Smith Bill no licenses had been issued, would be to hold that during this interim there was no law of this State which would prohibit the sale indiscriminately in such county—a condition which it is certain the Legislature never contemplated should exist.

I am, therefore, of the opinion and so advise you, that during the period between the canvassing and certification of the result of an election held under the Parks Bill and the issuance of licenses under the Smith Bill, the Carmichael and Fuller Bills are in effect in such counties.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHERIFFS—NOT ENTITLED TO GUARD FEE IN COUNTY COURT CASES.

September 7, 1911.

Hon. J. G. Oakley,
President Convict Board,
Capitol.

Dear Sir:—

Yours enclosing letter of Judge S. J. Petree, to Hon. C. B. Brown, and requesting me to advise you in reference thereto, received.

Judge Petree desires to know, as I gather from his letter, if the Sheriff is entitled to the guard fee of two dollars in County Court cases as provided by the Act amending Section 6638 of the Code, Acts 1911, p. 41.

Section 6638 of the Code provides for the fees of Sheriffs in criminal cases, generally, but Sections 6655-6 provide, specifically, what fees shall be allowed in the county court, and provide that none other shall be allowed. This guard fee of two dollars is not provided for by Sections 6655-6 of the Code.

I am, therefore, of the opinion, and so advise you, that the Sheriff is not entitled to the two dollar guard fee in cases in the County Court.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHERIFF'S EX-OFFICIO FEES.

September 12, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Birmingham, Ala.

Dear Sir:—

Replying to your letter of the 30th ult., in which you inquire of me whether, prior to the Act of August 9, 1907, Sheriffs were allowed fees for ex-officio services where the net annual income from the office exceeded $7,500.00, received.

Section 1377 of the Code of 1896 regulated the ex-officio fees of Sheriffs prior to the passage of the Act approved August 9, 1907, to which you refer. Prior to the passage of that Act there was no exception based on the amount of the net earnings of the Sheriff, so he was of course entitled to his ex-officio fees regardless of the income from his office.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

JANITOR, ETC.—PAYMENT OF BY COUNTY.

September 12, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Birmingham, Alabama.

Dear Sir:—

Replying to your letter of the 30th ult., in reference to a janitor's services in the court house of Jefferson County, and

also to that portion of your letter of the 6th inst., which refers to the same matter, I beg to advise you that in my opinion, the janitor, elevator man and night guard, about which you inquire, are proper charges against the county.

Under Sections 130, 131 and 132 of the Code, I believe these charges are authorized.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

TYPEWRITERS, TELEPHONES AND ADDING MACHINES IN JEFFERSON COUNTY.

September 12, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Birmingham, Ala.

Dear Sir:—

Replying to your letter of the 6th inst., in which you request me to advise you whether, under a local law approved February 23, 1899, typewriters could be furnished by the Board of Revenue of Jefferson County, in their discretion to the officers of such County, I beg to advise you that whether or not typewriters can be furnished under the act mentioned by you is immaterial, as they can be furnished under the provisions of the Act approved February 16, 1891, entitled an Act "To prescribe and regulate the purchase of supplies for the several County offices, court house, jail, almshouse and convict camp of Jefferson County," the provisions of such act being very broad and liberal.

Under the provisions of this act, I also beg to advise you that I am of the opinion that not only typewriters, but adding machines and telephones, may be supplied to the officers of Jefferson County.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY AID TO INSTITUTIONS OF PUBLIC NATURE.

September 12, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Birmingham, Ala.

Dear Sir:—

Replying to your letter of the 30th ult., in reference to the aid extended by the Board of Revenue of Jefferson County to certain institutions in that County, I beg leave to advise you as follows:

Under Section 735 of the Code, as amended by the act approved April 4, 1911, Courts of County Commissioners and Boards of Revenue have authority to aid in maintaining and taking care of those who are unable to provide for themselves in any hospital in the County which is maintained exclusively for sick or wounded people.

I beg to further advise you in the matter of the appropriation by Boards of Revenue and County Commissioners to institutions such as inquired about in your letter, that while I cannot answer as to the institutions by name, not having information as to the character of each institution, that such courts and boards can, and are, authorized to make appropriations to such public institutions in the County which are not operated for any private or pecuniary benefit and the operation of which tends to the further promotion of the public health and morals.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FEES OF SHERIFF AND CLERK OF CRIMINAL COURT IN JEFFERSON COUNTY.

September 13, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Birmingham, Alabama.

Dear Sir:

Replying to your letter of the 9th inst., requesting to be advised upon several matters relating to fees which have been

charged against the County by the Clerk of the Criminal Court of Jefferson County and an ex-Sheriff of the County, I beg to advise you as follows:

If your first question in regard to fees in scire facias cases refers to scire facias or notices for the recovery upon bail bonds, then I beg to advise you that the Supreme Court of this State has declared that such cases where the County is the plaintiff are civil actions and that the County may be charged with the cost of this proceeding as any other litigant, and I therefore advise you that where the County fails to obtain judgment or to collect on execution it would be liable for the cost of the proceeding, and the officers entitled to fees should be allowed to collect such fees from the county.

State for the use of Coosa County v. Parker, 83 Ala. 269;
Dover v. State, 45 Ala. 244-255.

The second question presented by your letter involves the ex-officio fees of an ex-sheriff of the County. The Sheriff of Jefferson County, up to the enactment of the Act of August 9, 1907, was entitled to ex-officio fees not to exceed five hundred dollars. However, Section 3703 of the Code provides that all persons entitled to an allowance for ex-officio fees must itemize such services and make oath thereto. I therefore advise you that he could only collect ex-officio fees for those services which were itemized in his account and for which he was entitled by law. If he has received from the county a larger amount of money than his services for which he was entitled to ex-officio fees called for, he should be held responsible for same. However, I am of the opinion that the Clerk's statement of the facts would not be sufficient to show that half of the charge was made for jury notices and half for serving defendant's witnesses. I am of the opinion that it is a question of fact to be determined by your examination, whether or not the notices served by the Sheriff were sufficient for the allowance of five hundred dollars ex-officio fees—if so, I do not think that any amount could be recovered upon this claim.

Sections 3704-5 of the Code answers your third question, which provides, among other things that no Sheriff shall demand or receive a fee for any service performed by him not

justified by a charge entered in his fee book. These sections also answer the fourth and last question presented by your letter. However, while it has been held by the Supreme Court that in order for a Sheriff or Clerk to be entitled to any fee, such fee must be entered in the fee book required by the Code, still, it is not necessary for this fee to be entered at the time the charge was made. Such entry may be made at any time afterwards, before execution, or before the close of the case.

McDonald v. Cox, 104 Ala. 379;
Bilbro v. Drakeford, 78 Ala. 321.

TAX COMMISSIONERS NOT ENTITLED TO FEE FOR COLLECTION AUTOMOBILE LICENSE.

September 14, 1911.

Hon. J. Lee Long,
Chairman State Tax Commission,
Montgomery, Ala.

Dear Sir:—

You letter of this date requesting me to advise you whether County Tax Commissioners are entitled to compensation for the collection of the license imposed on automobiles by the act of the Legislature approved April 22, 1911, received.

The only provision of law made for the compensation of Tax Commissioners for the collection of licenses, is where such licenses are to be paid to the Probate Judge. These licenses not being payable to the Probate Judge, he having nothing to do with their collection, I am of the opinion that the Tax Commissioner would not be entitled to any compensation or any commission for the collection of these licenses.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

HIRE OF HALL BY COMMISSIONER OF AGRICULTURE AND INDUSTRIES AND PAYMENT THEREFOR OUT OF CONTINGENT FUND.

September 14, 1911.

Hon. R. F. Kolb,
Commissioner of Agriculture and Industries,
Capitol.

Dear Sir:—

Your letter of the 12th inst. requesting me to advise you as to whether you could use part of your contingent fund of five hundred dollars per month for the payment of the hire of a hall, and other incidental expenses of the Cotton Convention recently assembled in this city, received.

The provisions of this fund are found in Section 52 of the Code, which provides that the fund may be used to meet the expenses of your office and also the travelling expenses of the Commissioner and Clerks, and of the Chemist.

I cannot see how the expenses above referred to could be considered as expenses of your office, and certainly they cannot fall under the head of travelling expenses.

I am therefore of the opinion and so advise you, that you have no authority to use any portion of your contingent fund for the purpose above stated.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FARMERS' MUTUAL INSURANCE ASSOCIATION MAY CONTINUE BUSINESS.

September 15, 1911.

Hon. C. B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

I acknowledge receipt of your letter of the 9th inst., requesting to be advised with reference to the operation of the Farmers' Mutual Insurance Association of Alabama, and asking whether, under the special act creating this corporation, this

association comes within the operation of the General Insurance Laws of this State, and especially within the operation of the Tax Laws.

Replying to you request, I beg to advise you that, under the provisions of the act creating this corporation, I am of the opinion that they are entitled to continue in existence and to do business for the time prescribed in the act, regardless of the General Laws of the State requiring a certain amount of capital stock to be paid up before such a company can operate. However, there is nothing within the charter of this corporation which in any way exempts it from taxation, and I therefore advise you that this company is liable for taxes and licenses in the same manner and to the same amount that other companies within this State doing a like business are compelled to pay.

I enclose herewith the papers handed me in reference to the matter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

DECISIONS OF COURT OF APPEALS—PAYMENT OF REPORTER OF.

September 19, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of September 18th, referring to me the letter of Hon. Lawrence H. Lee, Supreme Court Reporter, of the same date, insuring with reference to the manner of his payment as such reporter, for reporting the decisions of the Court of Appeals, received.

Section 18 of the Act approved March 9, 1911, entitled An Act "To establish a Court of Appeals for the State of Alabama, and to provide for the transfer of certain cases now pending in the Supreme Court, to said Court of Appeals," Acts 1911, p. 95, provides that the reporter of the Supreme Court shall report the opinions of the Court of Appeals in all respects as

the reports of the Supreme Court, and shall receive the same compensation as authorized by law for reporting the decisions of the Supreme Court. Also, that the report shall be published in the same manner, and the expense paid in the same manner as the expense of publishing the reports of the Supreme Court.

There is no provisions made in the act directly stating upon whose certificate or authority you are authorized to draw your warrant upon the State Treasury for the payment of the compensation of the reporter as provided in the act.

Section 5997 of the Code provides the compensation and the method of payment of the compensation of the reporter of the Supreme Court for reporting the decisions of the Supreme Court, and makes such compensation payable on the certificate of the Chief Justice, to the State Auditor.

Construing the provisions of Section 18 of the Act creating the Court of Appeals, together with the provisions of Section 5997 of the Code, I am of the opinion and so advise you, that the presiding judge of the Court of Appeals, being in the same relation to the Court of Appeals as that of the Chief Justice to the Supreme Court, that by analogy and inference, the legislative intention was, and that the legislative mandate is, that you shall pay compensation to the reporter for reporting the decisions of the Court of Appeals, upon the certificate of the presiding judge of that Court, in general conformity with the provisions of Section 5997 of the Code.

I return you herewith the letter of Mr. Lee.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CONTRACTS FOR STATE AID TO ROADS—APPROVED.

September 16, 1911.

Mr. W. S. Keller,
State Highway Engineer,
Capitol.

Dear Sir:—

In reply to your favor of the 15th inst. asking this office to advise you whether or not under Section 9 of the Act

creating the State Highway Commission, Acts 1911, p. 223, you have authority to approve contracts for State aid work, made by the proper County authorities, without having first advertised for bids under the provisions of said section, I have the honor to advise you that under the section in question, the State Highway Commission has no authority to approve any contract for State aid work unless the provision of the section with reference to an advertisement for bids has been complied with.

Yours very truly,
WILLIAM L. MARTIN,
Ass't Attorney General.

SHERIFFS—EX-OFFICIO FEES OF.

September 19, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your two letters of the 14th and 15th inst., calling my attention to the Local Act of Jefferson County in reference to the ex-officio fees of Sheriffs, and asking further advice in reference to the ex-officio compensation of the Sheriff of that county, received.

An investigation of the Local Laws shows that the Act approved February 15, 1897, providing for compensation for ex-officio services of the Sheriffs of Mobile, Jefferson and Montgomery Counties, was amended by an Act approved February 8, 1899, and by this Act the Courts of County Commissioners were authorized to allow them not exceeding five hundred dollars per annum for ex-officio services. The Legislature, on August 9, 1907, passed an Act amending Section 1377 of the Civil Code of 1896, which was then in force, providing that Sheriffs whose annual income exceeds seven thousand five hundred dollars, should not have any ex-officio allowance. Section 2 of this Act of August 9, 1907, provides that all laws, local, special or general, in conflict with the provisions of the Act are repealed, thus clearly operating a repeal of the local

Act for Mobile, Jefferson and Montgomery Counties, above referred to. Section 68 of the Constitution provides that neither the Legislature nor any County or municipal authority shall have power to grant to any officer any extra fee, compensation or allowance after a service has been rendered, not to increase or decrease the compensation of such officer during thir term, but provides that the provisions of this Section shall not apply to allowances made by Commissioners' Courts or Boards of Revenue to County officers for ex-officio services, thus evincing an intent on the part of the framers of the Constitution to leave the Legislature the utmost latitude in dealing with the subject of ex-officio services.

The Act of August 9, 1907, having repealed the Local Law for Jefferson County, the Board of Revenue of Jefferson County was without authority to allow the Sheriff of that County, provided his office paid him more than seven thousand five hundred dollars net, any compensation for ex-officio services, after August 9, 1907. However, any allowances up to five hundred dollars, made for services rendered prior to August 9, 1907, would be valid, but no allowance for any time subsequent thereto would be valid.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FEEDING OF PRISONERS—AUTHORITY FOR.

September 19, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Birmingham, Alabama.
Capitol.

Dear Sir:—

Your letter of the 11th inst., in reference to the compensation of the former Sheriff of Jefferson County for feeding prisoners, received.

You state that he has no mittimusses, capiases, warrants or orders of release for prisoners committed to his charge, but that he states that he has destroyed these. In the absence of

such papers, you have no means of determining whether his account is correct or not. I have heretofore advised other examiners that these papers were necessary in order that an allowance for the feeding of prisoners could be made.

The papers referred to by you constitute the authority of the sheriff for receiving and discharging prisoners, and without them you have no evidence that they were ever legally in his custody, and you can only allow the Sheriff credit for feeding prisoners who are shown to have been legally in his custody.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CHAUFFEUR'S LICENSE—WHO LIABLE FOR.

September 20, 1911.

Hon. Cyrus B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

Your letter of this date enclosing communication from Mr. L. M. Hooper, of Selma, in reference to chauffeurs' license, received.

Section 23 of the Act approved April 22, 1911, known as the "Automobile Law" provides that all chauffeurs shall pay a fee of five dollars for a license to operate any motor vehicle. There is, however, in this section of the act, this provision: "Provided that the provisions of this section shall not apply to any owner of a motor vehicle for private use, or any member of his family, or other person authorized by him and otherwise qualified under the provisions of this act."

Mr. Hooper states in his letter that his car is operated by a negro who is a general utility man about the house, acting in various capacities other than that of driving the car.

The fact that one is engaged in other occupations and that the operation of the car is only a portion of his occupation may not relieve him from the payment of the license.

The chauffeur, under the meaning of the act, I should construe to be one who receives compensation for running or

driving a car, whether that be the entire service for which he receives compensation, or only a portion of the service for which he receives compensation, or one who regularly or constantly drives a car not his own or that of any member of his family.

I am, therefore, of the opinion, and so advise you, that the servant referred to by Mr. Hooper in his letter is a chauffeur within the meaning of that section of the Act.

I return you herewith the letter of Mr. Hooper.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BOARD BILL OF PRISONERS SENTENCED TO HARD LABOR.

September 21, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 14th inst., requesting to be advised whether or not a prisoner who has been convicted and sentenced to hard labor for fine and costs should be required to pay his board bill for the time he was in jail, when such prisoner before beginning his term of hard labor, pays the costs and the fine imposed upon him, in money.

Replying to this question, I beg to advise you that it is the general rule of law that the term of a sentence begins from the day it is imposed, after conviction, and that a prisoner held by the Sheriff in jail, after sentence, is presumably working out the sentence imposed, and therefore he cannot be held liable for board bill during the time he is held by the Sheriff before being turned over to the proper hard labor officers of the County.

Yours very truly,
ROBERT C. BRICKELL.
Attorney General.

TAX COMMISSIONERS' FEES FOR CITING CORPORATIONS FOR FRANCHISE TAX.

Septembe 27, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of the 26th inst., in which you request me to advise you whether County Tax Commissioners are entitled to 10 per cent commission for citing delinquent corporations under Section 12 of the revenue bill, who have not paid their franchise tax, received.

The provisions of Section 9 of the Act approved March 31, 1911, to further provide for the revenue of the State, are amendatory of Section 2245 of the Code of 1907, but only to the extent that the period before delinquency is extended by the act for a period from January 15th to February 1st. The provisions of this section of the act and of this section of the Code are such as call for broad and liberal construction. Having in view the condition with which the Legislature was dealing, it seems clear that the word "license," as used both in Section 2245 of the Code and in Section 9 of the act, was intended to be used in its most broad and liberal sense, and not in any restrictive sense whatsoever.

Construing Section 9 of the revenue law, which is, as I have said, amendatory of Section 2245 of the Code, together with the provisions of Section 2244 of the Code, which requires the Tax Commissioners to aid the Revenue Officers of the State in the collection of escaped delinquent back taxes and licenses, any other conclusion than that the duty was imposed upon them of assisting in the collection of the taxes imposed under Section 12 of the Revenue Bill, and that it was their duty to cite delinquents before the Probate Judge and cause such taxes to be paid, and that they were to receive the compensation fixed by Section 9 of the Revenue Law for such service, would lead to a conclusion which would tend to destroy one of the evident purposes which was in the minds of the Legislature in the passage of the Act, and of the Sections of the Code referred to.

I am, therefore, of the opinion, and so advise you, thatCounty Tax Commissioners are entitled to their commission for citing delinquent corporations under Section 12 of the Revenue Law before the Probate Judge and causing the tax therein provided to be paid.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

MERCY HOME—APPROPRIATION FOR.

September 28, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of the 27th inst., asking my opinion as to the amount now available for the Mercy Home under the provisions of the Act approved April 15, 1911, entitled an act "To provide for State aid, regulation and supervision of the Mercy Home Industrial School for Girls, located at Birmingham, Ala.," Acts 1911, p. 418, received.

The provision of said Act for the appropriation is that the sum of four thousand dollars, annually, is appropriated out of any money in the State Treasury, for the support, maintenance and improvement of said Mercy Home, for each of the years, 1911, 1912, 1913 and 1914, and that the Auditor is authorized and directed to draw his warrant quarterly for the payment of the sum so appropriated.

By Section 6 of that Act, it is provided that the Act should become effective only when certain amendments to the charter of this institution were made.

An examination of the records in the office of the Secretary of State shows that the charter was amended by the filing of amended articles of incorporation in his office, on the 13th day of May, 1911.

The Act, therefore, did not become effective until that date, and on that date they became entitled to receive, each quarter, the sum of one thousand dollars from the State Treasury.

On April 22, 1911, the Legislature passed an Act entitled an Act "To amend Section 8 of the Code of Alabama of 1907," Acts 1911, p. 629, by which it is provided that wherever the word "year" is used in reference to any appropriation for the payment of money out of the State Treasury, that the word "year" should mean fiscal year, unless otherwise expressed. The fiscal year of the State begins October 1st, and ends September 30th. This Act was in reality only a legislative recognition of the way and manner in which previous appropriations had been construed to be available. The fiscal year is divided into four quarters, beginning October 1st, January 1st, April 1st and July 1st. The first quarter of the calendar year and the first and second quarters of the fiscal year had entirely passed at the time of the passage of the Act. The Act was passed, and its terms complied with during the third quarter of the fiscal year.

The appropriation made by the Act, cannot, in the absence of other express language, be supposed to have intended an appropriation for any past time, unless so expressly stated in the Act, and the appropriation could only become available upon compliance with the conditions stipulated in Section 6 of the Act. These conditions having been complied with, on May 13th, the Act became effective upon that day and they were then entitled to receive the appropriation from the State, but as it was directed that the appropriation should be paid quarterly, and as this appropriation became available during the third quarter of the fiscal year, it could only be paid at the beginning of the next quarter, to-wit: January 1st, and then only for such portion of the quarter as the Act had been effective—that is, from May 13, 1911. Thereafter they are entitled to their regular quarterly appropriation of one thousand dollars.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PURE FOOD LAWS—ENFORCEMENT OF.

September 28, 1911.

Hon. R. F. Kolb,
Commissioner of Agriculture and Industries,
Capitol.

Dear Sir:—

Your letter of the 27th inst., in which you request me to advise you as to whether or not Section 7076 of the Code has been repealed by the provisions of the Act approved August 29, 1909, Acts Special Session 1909, p. 237, entitled an Act "To regulate the sale of food and drugs in the State of Alabama, and to provide for the enforcement and inspection, and prescribe penalties for violation thereof," and also requesting me to advise you whether under Section 7079 of the Code you are authorized to require restaurants and hotels to state on their bills of fare that they are serving oleomargarine when it is served instead of butter, received.

In reply to your first question, I beg to advise you that in my opinion, Section 7076 of the Code was not repealed by the Act above referred to, and is now in force.

In reply to your second question, I am unable to find any povision of law which would authorize you to require restaurants and hotels to state upon their bill of fare that they are serving oleomargarine instead of butter. This section of the Code is penal, and must be strictly construed.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PHYSICAL DISABILITY DOES NOT EXEMPT FROM PAYMENT OF LICENSE AS DEALER IN HORSES, MULES, ETC.

September 28, 1911.

Hon. J. L. Long,
Chairman State Tax Commission,
Capitol.

Dear Sir:—

Your letter of the 26th inst., enclosing letter from Mr. O. J. Quinn, and requesting me to advise you thereupon, received.

It appears from the letter of Mr. Quinn that he desires to be informed whether or not a person who is unable to perform manual labor and has secured a certificate from a physician and a certificate from the Judge of Probate, of such fact, enabling him thereby to peddle without a license under the provisions of sub-division 69 of Section 2361 of the Code, is also permitted to deal in horses and mules without the payment of the license prescribed by sub-division 49 of said section.

The exception of disabled persons only applies to peddlers under sub-division 69, by the terms of said sub-division itself. There is no such exception under sub-division 49.

I am, therefore, of the opinion, and so advise you, that any person engaged in buying, selling or exchanging horses, mules, jacks or jennets, is liable for the license prescribed by sub-division 49, even though he may be unable to perform manual labor and has secured certificate of the physician and of the Judge of Probate, of such fact. I return you herewith the letter of Mr. Quinn. Yours very truly,

ROBERT C. BRICKELL,
Attorney General.

OFFICER'S SCRIPT NOT RECEIVABLE IN PAYMENT OF FINES.

September 28, 1911.

Hon. Charles L. Townes,
Examiner of Public Accounts,
Decatur, Alabama.

Dear Sir:—

Your letter of the 28th inst., in reference to the payment of fines arising from convictions in criminal cases, with officers' script, received.

The only provision of law for the allowance of the payment of fines with what is commonly called "script," is found in Section 6666 of the Code, and by that Section the only character of script allowed to be received in payment of fines and forfeitures is script issued in payment of witness fees—that is, witness certificates. There is no authority of law for the payment of fines or forfeitures in any other character of script.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

GENERAL SCHOOL FUND CANNOT BE USED BY COUNTY BOARD TO PAY DEBTS WHICH ACCRUED IN PREVIOUS YEARS.

October 4, 1911.

Hon. H. J. Willingham,
Superintendent of Education,
Capitol.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 3rd inst., requesting my opinion upon the question as to whether or not County Boards of Education can use any part of the general educational fund provided for by the Constitution and by Section 1760 of the Code for the payment of teachers' salaries, or other debts which have accrued during a previous year.

After consideration of Section 256 et sec. of the Constitution, and Article 16 of Chapter 41 of the Code, I am of the opinion that the County Boards have no right to use any of the money apportioned to their Counties, for the payment of any debt which had accrued during any previous year; that to allow such a practice would be in violation of the general uniformity contemplated by the Constitution and the Acts of the Legislature putting into effect these constitutional provisions.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

JUDGE AND CLERK OF INFERIOR COURT OF MOBILE COUNTY—COMPENSATION MAY BE CHANGED BY LEGISLATURE DURING TERM.

October 5, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 26th ult., requesting an opinion upon the validity of an Act increasing the salaries of the Judge and Clerk of the Inferior Court of

Mobile, and also requesting information upon the question of the bond of the Clerk of that Court.

Replying to this letter, I beg to say that similar questions have been presented to the Supreme Court of this State in cases where the officers or the Courts are entirely within the legislative control, and it was decided that in such instances the Legislature might change the term of office or abolish the Court entirely.

State ex rel Thomas v. Gunter, 54 So. 283;
Winter v. Sayre, 118 Ala. 1.

The Inferior Court is not provided for by the Constitution, and could have been abolished by the Legislature and a new Court created in its place, fixing a different salary for the Judge of this new Court, and I am, therefore, of the opinion that it was entirely competent to increase the salary of the Judge of this Court during the term of office of the Judge thereof.

Replying to that part of your letter which relates to the bond of the Clerk, I beg to advise you that the Clerk should be appointed under the Act of 1907, each year, and a new bond made for each term; however, the Clerk holding under the appointment of 1906 was during the entire time a de facto officer and the bond provided at that time would cover his action as Clerk for the time provided in the bond, or for a reasonable time after the expiration of the Clerk's term of office.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

AUTOMOBILE LAW—SALES AGENCY REQUIRED TO PAY DEALER'S LICENSE.

October 6, 1911.

Hon. Cyrus B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

Your letter enclosing letter from the Van Hoose Sales Agency, and requesting me to advise you thereon, received.

The question upon which you desire my advice is stated in the letter of the Van Hoose Sales Agency, and is, "Is there any tax on a State Agency for Automobiles, and if so, what is the price of said license tax?

I mean by the above second question, that this agency has State right for the Auburn Automobile Company, of Auburn, Ind. We have established Local Agents in various towns and do not expect, ourselves, to carry automobiles in stock. They will, however, we hope, be purchased and carried in stock by local dealers in various cities in Alabama."

While there is no tax upon State Agencies, under that name, there is a tax of one hundred dollars imposed by the Motor Vehicle Law on dealers in motor vehicles, and the question presented is, whether or not, under the conditions stated the Van Hoose Sales Agency would be liable for this dealers' license, and also whether the local dealers in the various cities in Alabama would also be liable.

The word "dealer" as defined in Webster's International Dictionary, has a number of meanings, among which, we find—"a negotiator; an agent; one who does business; trader, a trafficker, especially a person who makes a business of buying and selling goods, especially as distinguished from a manufacturer without altering their condition." The word "dealer" is also defined in 13th Cyc., p. 286, as follows: "a person who buys to sell again, and not one who buys to keep or makes to sell; one who trades, buys or sells; one whose business it is to buy and sell; one who buys to sell to others at a profit; one, who acts between man and man to have transactions of any kind with; one who distributes; a trader; a keeper; one who makes successive sales as a business. A term which implies an habitual course of dealing."

From these definitions, it will be seen that the word "dealer" is a comprehensive one and includes anyone not a manufacturer, who trades or trafficks, acts as agent or negotiator, connected with the buying or selling of an article, out of which transactions he obtains or expects to obtain a profit.

I am of the opinion that the word "dealer," as used in The Motor Vehicle Law, was intended to receive, and should receive a broad construction, and am, therefore, of the opinion and so advise you that under the conditions stated, the Van Hoose Sales Agency is liable for the tax as a dealer therein provided.

I return you herewith the letter of the Van Hoose Sales Agency.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BASE BALL PARKS—LICENSE UNDER REVENUE ACT 1911, EFFECTIVE JAN. 1, 1912.

October 7, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

Your letter of the 6th inst., requesting me to advise you when the license for baseball parks, provided by the Act approved March 31, 1911, entitled an act "To further provide for the revenues of the State of Alabama," became effective, received.

In reply I beg to advise you that under sub-division 4 of Section 2361 of the Code, a license was imposed upon base ball parks, and by the provisions of Section 36 of the Revenue Law, that Act did not become effective as to persons or occupations then required to pay a license until January 1, 1912.

I am, therefore, of the opinion, and so advise you, that that portion of the Revenue law fixing a license for baseball parks does not become effective until January 1st next.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CORPORATIONS—NO TAX OR FEE FOR RECORDING INCREASE OF BONDED INDEBTEDNESS.

October 11, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

Replying to your letter of the 9th inst., requesting me to advise you whether a corporation is liable for the payment of

any fees for recording an increase of its bonded indebtedness, as provided under Section 3480 of the Code, I beg leave to advise you that there is no tax or fee imposed by the State upon the increase of bonded indebtedness as therein provided —the only tax being upon the increase of capital stock.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BOARDS OF REVENUE—COMPENSATION MAY BE INCREASED DURING TERM.

October 13, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

Yours of the 10th inst., requesting me to advise you in reference to the increase of the salaries of the members of the Board of Revenue of Mobile County, received.

Boards of Revenue are in lieu of Courts of County Commissioners, and have the same powers and jurisdiction, as a general rule. By Section 3306 of the Code, Courts of County Commissioners are created Courts of Record. This provision also applies to Boards of Revenue, where they are created in lieu of Courts of County Commissioners.

Section 150 of the Constitution prescribes that the compensation of "Justices of the Supreme Court, Chancellors, and Judges of the Circuit Courts and other courts of record, except Probate Courts, shall at stated times receive for their services a compensation which shall not be diminished during their official terms."

Boards of Revenue, therefore, fall within the provisions of Section 150 of the Constitution, and not within the provisions of Section 281 of the Constitution, and their salaries may be increased during their terms of office, and they would be entitled to receive such increase during their term.

I am aware, and call your special attention to the fact that the opinion now given you is in conflict with the opinion given

you upon this same subject in reference to the members of the Board of Revenue of Jefferson County, on September 4th last.

You will therefore, please regard the former opinion as withdrawn and of no effect.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PENSIONS—ACT OF APRIL 24, 1911, WITH REFERENCE TO NEEDY CONFEDERATE SOLDIER REFERS TO ANY PENSIONER.

Hon. Emmet O'Neal, October 13, 1911.
Governor,
Capitol.

Dear Sir:—

Replying to your request that I advise you concerning the communication to you of September 25th, from Hon. F. S. Ferguson, member of the State Board of Pension Examiners, in reference to appropriation made by the Act of April 20th, for needy Confederate soldiers, Acts 1911, p. 545, and that made by the Act approved April 24th, 1911, Acts 1911, p. 690, I beg to advise you that in my opinion any person entitled to a pension, would be deemed needy under the provisions of the Act of April 20th.

I return you herewith the letter of General Ferguson.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BLOOD HOUNDS—COUNTY CANNOT PURCHASE.

Hon. J. T. Gorman, Otober 16, 1911.
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

Your letter of the 12th inst., in reference to the purchase of blood hounds by a County, received.

In reply, I beg to advise you that I am unable to find any authority for the purchase of blood hounds by the County, and such an expenditure of the county funds, in my opinion, is illegal.

Further answering your question, I beg to advise you that I do not see where any liability could attach to the Sheriff if their purchase was authorized by the Court of County Commissioners. The liability, if any, would rest upon the Treasurer who paid the warrant.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

POLL LISTS—PROBATE JUDGE ENTITLED TO COMPENSATION FOR MAKING.

October 16, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

Your letter of the 14th inst., requesting me to advise you as to the compensation of Probate Judges for making poll lists and registration lists, received.

Upon examination, I find that this duty was originally imposed upon Judges of Probate, and compensation provided therefor, by Section 13 and 14 of the Act approved October 9, 1903, entitled An Act "To further regulate elections in the State of Alabama," Acts 1903, p. 438; that in codifying the laws, the provisions of Section 14 as to compensation of the Judge of Probate, were omitted, but by the Act entitled An Act "To further regulate elections in the State of Alabama," approved November 23, 1907, Acts Special Session 1907, p. 68, provision for compensation was restored, and this Act, and especially as to compensation, was further amended by an Act approved March 17, 1911, entitled An Act "To Amend Sections 3 and 5 of An Act entitled An Act "To further regulate elections in the State of Alabama, approved November 23, 1907," Acts 1911, p. 121.

After considering these various Acts, I am of the opinion that the Probate Judge is entitled to the compensation as provided by said Acts, for making poll and registration lists.

Yours very truly,

ROBERT C. BRICKELL,

Attorney General.

SHERIFF'S FEE FOR ATTENDANCE ON COUNTY COURT LIMITED TO TWO DOLLARS PER DIEM.

October 19, 1911.

Hon. Frank V. Evans,
Examiner of Public Accounts,
Monroeville, Ala.

Dear Sir:—

In reply to your favor of the 18th inst., asking this office to advise you whether or not that part of An Act "to confer additional jurisdiction upon the County Court of Monroe County," Local Acts 1907, p. 36, providing for an allowance to the Sheriff of three dollars per diem while in attendance upon said court, is constitutional, I beg to advise you as follows:

The Sheriff while attending upon the County Court, acts as a bailiff. Under Section 6647 of the Code, bailiffs are allowed two dollars per diem while in attendance upon the Circuit, City, Criminal or Probate Court. Section 6699 provides that the terms of the County Court shall be attended by the Sheriff or his deputy, and in their absence, the Court must appoint a suitable person whose compensation shall be two dollars per diem. While Section 6647 provides for the compensation of a bailiff for the "Probate" Court, and while Section 6699 does not provide directly for the compensation of the Sheriff serving as bailiff on the county court, but fixes the compensation of his substitute at two dollars per diem, it cannot be doubted that it was the intention of the Legislature to include the County Court in the term "Probate" Court in the former section, and to fix the bailiff's compensation at the regular figure.

Having reached the conclusion that the compensation of the bailiff of a County Court is fixed, it follows that a legislative enactment, local in its nature, increasing to three dollars per diem, the allowance of such a public officer contravenes the provisions of sub-division 24, Section 104 of the Constitution.

I beg to advise you, therefore, that that part of the Act in question fixing the compensation of the Sheriff at three dollars per diem for attending the County Court of Monroe County was unconstitutional and void.

Yours very truly,
WILLIAM L. MARTIN,
Ass't Attorney General.

MOBILE COUNTY—TREASURER ENTITLED TO INCREASED COMPENSATION—SHERIFF NOT ENTITLED TO CHARGE COUNTY FOR ERECTION OF SCAFFOLD—COUNTY CANNOT BE CHARGED FOR DECORATING OR ILLUMINATING COURT HOUSE—JUDGE OF PROBATE AND COUNTY TREASURER NOT ENTITLED TO COMPENSATION FOR ISSUANCE OF COUNTY BONDS.

October 20, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

In reply to your favor of the 14th inst., asking this office to advise you:

(1) If the County Treasurer can legally draw an increase in his salary made during the term for which he was elected;

(2) If an allowance of fifty dollars to the Sheriff for the erection of a scaffold is a legal claim against the County;

(3) If an expenditure of two hundred dollars for the purpose of illuminating and decorating the court house during Mardi Gras is legal, and

(4) If the Judge of Probate and County Treasurer are entitled to compensation for services rendered in reference to an issuance of County bonds.

I proceed to answer your inquiries seriatim:

(1) The Code prescribes the duties of the County Treasurer (Sec. 211), fixing his salary at not exceeding one thousand dollars per annum. By a local Act prescribing the authority and duties of the Board of Revenue and Road Commissioners of Mobile County (Local Acts 1907, p. 727), the Treasurer is made custodian of the road funds and is required to receive monthly from collectors of road funds, the amounts collected, "to prepare and deliver all receipt stub books; to take receipts of road fund collectors; to keep a record of the original, sworn enumerations on file, to audit such enumerations * * * to prepare a list of persons in each precinct subject to road duty, who have not paid their road tax * * * to keep an accurate account of all receipts from the road tax, separate and apart from other funds of the county," and to pay out by check all moneys ordered expended.

It will be seen that the local act quoted here adds additional duties to those prescribed by the Code, for the performance of which a fixed compensation is authorized. It is true that Section 281 of the Constitution prohibits an increase of the salary, fees or compensation, of any officer holding any civil office of profit during the term for which he shall have been elected or appointed, but it is within the power of the Legislature to enjoin new and different duties upon a public officer and to allow him compensation for the performance of such additional duties without violating this constitutional limitation.

State v. Granite Commissioners, 23 Montana, 250;
San Luis Obispo v. Felts, 104 Calif. 60;
Seattle v. Carson, 6 Washington 250.

The constitution limitation in question is intended to apply only to the salary and emoluments to which the officer is entitled for services required of him by the law in force at the time of his election or appointment, unless the salary then provided was intended as compensation for all services which the officer, as such, might render. The additional compensation is not paid to the County Treasurer as County Treasurer, but for performing the additional duties imposed on him by the local act hereinabove cited.

I am therefore of the opinion that the County Treasurer was legally entitled during the term for which he was elected, to the additional compensation prescribed by Section 8 of the Local Acts of 1907, p. 727.

(2) The Code, Sec. 6638, fixes at fifty dollars the Sheriff's fee for the execution of a criminal and "all incidents." I am of the opinion that the erection of the scaffold is one of the incidents included, and an additional allowance for this purpose, paid out of the County Treasury, is illegal and without authority. The County can be charged only with such expenses as are authorized by law. Where there is no law which creates the liability it cannot be enforced against the county.

Van Eppes v. Commissioners, 25 Ala. 460;
Mitchell v. Tallapoosa County, 30 Ala. 131;
Barbour County v. Clark, 50 Ala. 418;
Posey v. Mobile County, 50 Ala. 6;
Jack v. Moore, 66 Ala. 187;
Naftel v. County of Montgomery, 127 Ala. 563.

You ask further who is liable to the County for this expenditure? It is the duty of the County Treasurer, by statute to "receive and keep the money of the County and disburse the same according to law."

Code, Sec. 211.

"The law prescribes the manner in which he shall disburse these funds. The County cannot control him in disbursing, or make any other appropriation of them than that made by law."

Edmundson v. De Kalb County, 51 Ala. 103, 105;
Jackson County v. Derrick, 117 Ala. 348, 357.

"If after the audit and allowance (of a claim) a warrant is, pursuant to the statute, drawn on the County Treasurer, it is a mere *authority* to him to pay."

Commissioners' Court v. Moore, 53 Ala. 25. 28;
Savage v. Moore, 98 Ala. 533, 537.

It, therefore, became the Treasurer's duty to satisfy himself that, before paying a warrant, he is authorized as well by law as by the Court of County Commissioners. He is the custodian of the County's money, and under bond, "the condition of which is broken if the principal *misappropriates,* wastes or converts public moneys coming to his possession in his official capacity."

Jackson County v. Derrick, 117 Alabama, 348, 364.

The payment of a warrant not in all respects legal, is not authorized, and such a misappropriation of the funds of the County renders the Treasurer and his sureties liable.

Jackson County v. Derrick, 117 Ala. 348, 365.

I beg to advise you therefore that the County Treasurer is liable for the payment of the warrant of fifty dollars for the erection of a scaffold.

(3) I am unable to find authority for expending money for the purpose of decorating and illuminating the court house during Mardi Gras; a warrant issued for such purpose is illegal and the County Treasurer is liable for its payment.

(4) There is no authority in the Code for allowing compensation to the Judge of Probate for his seal and signature to County bonds, and to the Treasurer for services rendered in the issuance of the bonds. Section 171 of the Code requires that such bonds be signed by the Probate Judge and countersigned by the Treasurer, these being the only duties required of these officers with reference to an issuance of bonds. These duties are not new ones, the statute having been enacted in 1903. It is well settled that in the absence of a specific allowance therefor, a fee is not a legal charge against the county.

City Council of Montgomery v. Foster, 54 Ala. 62;
Kahn v. Locke, 75 Ala. 332;
Troup v. Morgan County, 109 Ala. 162, 165;
Torbet v. Hale County, 131 Ala. 143, 145.

The officers in whose favor these warrant were drawn went into office chargeable with the knowledge that the duties set

out under Sec. 171 of the Code would be imposed upon them, and without compensation, except their regular fees or salary. In the case of a Judge of Probate, such a duty could well come under his ex-officio duties; the Treasurer must find compensation in his regular authorized salary which pays him for "such other duties as are * * * by law required of him." Code, Sec. 211.

I beg to advise you, therefore, that such compensation to the Probate Judge and the Treasurer is without authority.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

EXCISE COMMISSION—NOT REQUIRED TO DISCLOSE NAMES OF PERSONS RECOMMENDING ISSUANCE OF LICENSE.

October 25, 1911.

Hon. Emmet O'Neal,
Governor.
Capitol.

Dear Sir:—

Yours of the 24th inst., enclosing me letter from Carl S. Pick, Clerk of Excise Commission of Citronelle, Ala., received.

The Excise Commission of Citronelle, as I gather from the letter of Mr. Pick, desires to be informed whether they are compelled to show to the public or to those citizens of Citronelle applying therefor, the list of persons recommending an applicant for license.

I can find no provision at all declaring the petition or the recommendation of public record, and am therefore of the opinion and so advise you, that no person has a right to examine such petition or such recommendation as a matter of legal right, and it is for the Commission, as in their judgment they may deem best, to show said petition or recommendation or to withhold the same.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BAILIFF ENTITLED TO TWO DOLLARS PER DAY IN PROBATE COURT—PROBATE JUDGE'S FEE IN INSANITY INQUISITIONS CANNOT BE CHARGED TO COUNTY.

Hon. J. T. Gorman, October 26, 1911.
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

In reply to your favor of the 24th inst., asking this office to advise you (1) whether the Sheriff is entitled to a fee of two dollars per diem for the services of a Bailiff in the Probate Court, I beg to advise you that under Section 6647 of the Code it is the Sheriff's duty to furnish a Bailiff for such Court, and that such Bailiff is entitled to two dollars per diem for such attendance. If the Sheriff furnishes one of his regular employed deputies, it is immaterial whether the Sheriff or the deputy draws the per diem.

(3) With reference to your request for advice regarding the fees collected by the Judge of Probate in insanity inquisitions, I beg to quote from an opinion given by me to Examiner Evans under date of August 8, 1911:

> "The fee allowed the Judge of Probate for services in lunacy proceedings, is not a fee which in any manner can be charged against the county. It is a fee which must be charged either against the estate of the person declared insane or against the unsuccessful applicant to have the person declared insane."

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

WITNESS FEES IN MOBILE COUNTY—SHERIFF TO FURNISH BAILIFF TO COURTS IN MOBILE COUNTY.

Hon. J. T. Gorman, Octobr 28, 1911.
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

In reply to your favor of the 21st inst., stating that under a local law in Mobile County witnesses are allowed fifty cents

per diem; that when cost bills are forwarded to the convict department, this department allows seventy-five cents per diem for witnesses, and requesting this office to advise you if there is any remedy for this discrepancy, I beg to state that Section 6572 of the Code fixes at seventy-five cents the per diem of a witness, and under Section 6576 "Costs shall be paid out of the convict fund only as prescribed in the preceding sections, without regard to special laws for particular counties." As it is incumbent on the State to pay seventy-five cents per diem, and as the Clerk in certain instances (Acts 1892-3, p. 426) must pay fifty cents per diem, I know of no remedy, except legislative, for this difference.

(2) It is the Sheriff's duty under Section 3264 of the Code, to furnish three Bailiffs to attend each term of the Circuit Court.

Under the provisions of An Act "To establish the Law & Equity Court of Mobile," it is made the duty of the Sheriff to furnish "all subordinate officers that may be necessary to expedite the business of said court, the same as he is now required to do under the law governing him as officer of the Circuit and Chancery Courts of this State."—Acts 1907, p. 562, 573.

Under the act establishing the City Court of Mobile (Acts 1845-6, p. 26) the Sheriff is required to attend such Court "as he is required to do in the Circuit Court."

I beg to advise you therefore, that it is the Sheriff's duty to furnish three bailiffs for each term of the Circuit and City Courts, and when so required, the same number for the Law and Equity Court.

It is not material that the bailiffs furnished by the Sheriff be regular deputies, nor does it matter whether the compensation be paid to the Sheriff or to the Bailiff. The arrangement between the two officers is a personal one of employment.

Mayfield v. Moore, 139 Ala. 417.

(3) In answering your inquiry with reference to the franchise tax due by a street railway company under the provisions of Section 12 of the Revenue Bill, I beg to refer you to my letter to you under date of October 16, 1911.

Yours very truly,

ROBERT C. BRICKELL,

Attorney General.

A DOMESTIC BREWERY MAY SELL BY AGENT AT WHOLESALES IN ALL COUNTIES IN THE STATE WITHOUT ADDITIONAL LICENSE.

October 30, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter of this date enclosing a letter from Hon. W. C. Agee, Chairman Excise Commission of Jefferson County, received.

Mr. Agee desires to be informed whether a domestic brewery which has taken out a license in the County in which the brewery is located can establish a local agency to sell its beer at wholesale, in Jefferson County, without taking out and paying for an additional license in that County.

In the case of State v. Capital City Ice & Brewing Company, 162 Ala. 568, which case is also reported in 50 Southern Reporter, p. 112, it was held under a provision almost identical with the provisions of Section 12 of the Smith Bill, that a domestic brewery having taken out a license as a brewery in the County in which the brewery was located, was entitled to sell by agent in any County in the State, at wholesale.

I am, therefore, of the opinion, and so advise you, that under the circumstances stated in the letter of Mr. Agee, a domestic brewery would be authorized to establish an agency in any County in the State other than the County in which it is located and has taken out a license, for the sale of its own products at wholesale, without paying any additional license.

I return you herewith the letter of Mr. Agee.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

MOBILE COUNTY CANNOT PAY COUNTY TREASURER TO KEEP CONVICT RECORD—COUNTY TAX COMMISSIONERS' FEES—CLERK OF CITY COURT OF MOBILE NOT ENTITLED TO EX-OFFICIO FEES.

November 1, 1911.

Hon. J. T. Gorman,
Mobile, Alabama.

Dear Sir:—

Replying to your letter of the 26th inst., asking this office to advise you whether or not the Board of Revenue is authorized to employ the County Treasurer at a salary of $150 per annum to keep the convict record, I beg to advise you that under Section 5 of an Act "To provide for the hiring, management, control and inspection of County Convicts," (Acts of session of 1907, pp. 179, 180), it is made the duty of the Judge of Probate to keep such record. In the absence of any express provision for compensation for this duty, which I am unable to find, the board has no authority to allow payment therefor.

The County Tax Commissioner is entitled only to such compensation as is allowed him out of "escaped, delinquent and back taxes, licenses or penalties," as is provided by Sections 2249, 2251, 2256 and 2266.

A payment of $400 to the Deputy Tax Commissioner for making an examination of back taxes is therefore without authority.

Under an Act approved September 25, 1903 (Local Acts 1903, p. 321), the compensation of the Clerk of the City Court was changed from fees to a salary of three thousand dollars per annum. The Act provided that, "all fees and costs which are now by law allowed to the clerk of the City Court of Mobile shall be collected by him and paid into the County Treasury for the use of Mobile County. I have the honor to advise you, therefore, that the clerk of the Circuit Court is not now entitled to ex-officio fees.

In your letter of the 26th inst., you state that the clerk of the Circuit Court is paid a salary of $3,000 per annum. I am unable to find the statute authorizing the payment, and shall thank you to request the Clerk to point it out to you and to advise me where to find it. In the act creating the Law and

Equity Court of Mobile (General Acts 1907, p. 563), naming the Clerk of the Circuit Court Clerk of that Court, provision is made for the salary on the appointment of a different Clerk in the event that the Circuit Court clerk be put upon a salary.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

SHERIFF'S FEE FOR ATTENDING COURT.

November 1, 1911.

Mr. J. T. Gorman,
Mobile, Alabama.

Dear Sir:—

In reply to your letter of the 29th ult., requesting this office to advise you whether or not the Sheriff is entitled to $2.00 per diem for attending the Circuit or City Court during the trial of a capital case, I beg to advise you that such allowance is proper, under Section 6638 of the Code. Section 3264 provides for the daily attendance of three Bailiffs on the Circuit Court, but under Section 6638 the Sheriff is allowed $2.00 per diem for personally attending on such court; only, however, during the trial of capital cases.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

COMPENSATION OF BOARD OF REVENUE OF MOBILE COUNTY—CHANGE IN.

November 1, 1911.

Mr. J. T. Gorman,
Mobile, Ala.

Dear Sir:—

Replying to your letter of the 21st ult., asking this office to advise you whether or not members of the Board of Revenue are legally entitled to draw additional compensation for ser-

vices performed when sitting as a board of equalization, to determine tax raises made by the County Tax Commissioner, and to allow compensation to the Clerk of the Board of Revenue and to the Tax Assessor for services in connection therewith, I beg to advise you as follows:

On Feb. 16, 1897, the Legislature fixed the compensation of the members of the board at $500 per annum, which "shall be the only compensation to which they shall be entitled by law." (Acts 1896-7, p. 1156.)

On August 2, 1907, the Legislature added to the compensation of each member of the Board of Revenue one thousand dollars as additional compensation for services performed in connection with the public roads. (Local Acts 1907, p. 727, 735.) The provision for this compensation was re-enacted on April 21, 1911. (Local Acts 1911, pp. 289, 293.)

At the time of the passage of the act of 1896-7, supra, the duties of the Board of Revenue, with reference to tax matters, (Code of 1886, sections 510-520), were similar to its present duties, with the exception of the new duty imposed by section 2264 of the Code of 1907. For services required under this section, no specific compensation is allowed to courts of County Commissioners, and for this they must depend on the per diem authorized by the Code. Were this duty regarded as an additional one, there is no legal method of determining how to allow additional compensation for the performance thereof. The members of the court being allowed a certain sum in lieu of all other compensation, I am therefore of the opinion that they must look to such sum as compensation for all services rendered with reference to their regular duties, and that any additional allowances made by the board for services in connection with tax raises are illegal.

The clerk of the board is allowed no compensation for issuing citations to persons named in the assessments filed by the commissioner, (Code, section 2261), and payments made to him are therefore illegal.

The Tax Assessor is required to co-operate with the Tax Commissioners in the performance of the duties of the latter, but for such co-operation the assessors are allowed no compensation. (Code, section 2246.) Under section 2899, however, the Tax Assessor is entitled to certain fees for serving

notices issued by the Court of County Commissioners, to be paid, however, only if the State succeeds, and then by the party paying the taxes.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

CONFEDERATE SOLDIERS' HOME—ELIGIBILITY FOR ADMISSION.

November 8, 1911.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

I have the letter of Commandant J. M. Simpson, of the Confederate Soldiers' Home, under date of October 23rd, which was referred by you to me with the request that I give an opinion upon the matter about which he inquires.

I find that this question was passed upon by me in an opinion given to you on April 26, 1911, at the request of Commandant Simpson, which opinion, so far as it deals with the question now involved, is :

> "His first question is, 'Can a Confederate Veteran who is himself eligible, bring with him to the home, his wife as an inmate, whether she be old or young?' The provision of Section 2044 of the Code upon this subject is, 'Only indigent Confederate Veterans and their wives when accompanied by their husbands * * * * shall be eligible as beneficiaries under this article.' It is therefore plain that a Veteran who is eligible may bring with him to the home as an inmate, his wife, and that the age of the wife can make no difference and has no effect upon this question.
>
> "His second question is, 'Can a Confederate Veteran already an inmate of the home, marry and bring his wife into the home as an inmate?' This question is covered by the provisions of Section 2044 above quoted, and I

direct special attention to the verbiage of the Section, 'and their wives when accompanied by their husbands.' I think this clearly refers to those who are their wives at the time of their admission to the home as inmates, and I do not believe it would authorize the admission to the home of the wife of an inmate where the marriage was contracted subsequent to the admission of the husband as an inmate, it being in my opinion, clearly the purpose of the statute that the status at the time of admission should govern in this particular."

Of course, if the inmate who has left the institution is eligible to admission, he is eligible to admission under the same circumstances as if he had never been an inmate.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

INSURANCE BY COMPANIES UNAUTHORIZED TO DO BUSINESS IN THIS STATE.

November 8, 1911.

Hon. Cyrus B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

Your three letters dealing with the question of unauthorized insurance in this State, received.

The matters inquired about in all the letters are so similar that I deem it proper to answer them in one letter. The matters inquired about raise the question as to the constitutionality and interpretation of Sections 4580, 4581, 4582, 4583, 4588 and 7715 of the Code of 1907.

Section 4580 deals with agents procuring insurance in a company not authorized to do business in this State. Section 4581 deals with any person placing insurance upon his property in an insurance company not authorized to do business in this state; Section 4582 deals with losses adjusted where

insurance has been taken out under the provisions of Section 4581; Section 4583 defines the situs of contracts of insurance; Section 4588 provides penalties for the violation of the provisions of Article 1, Chapter 99, of the Code of 1907; Section 7715 provides for the punishment of the agent of an unlicensed foreign insurance company.

The principles upon which the constitutionality and construction of these sections of the Code must be determined, have been carefully considered by the Supreme Court of the United States in the cases of Hooper v. Calif., 155 U. S. 64; Allgeyer v. La. 165 U. S. 578; Nutting v. Mass., 183 U. S. 553.

In Hooper v. Calif., supra, and Nutting v. Mass., supra, it was held that the state had the power to prohibit a foreign insurance company which had not qualified to do business within the state, or any agent or broker representing the company, from making contracts for insurance upon property within the State, but in Allgeyer v. La., supra, it was held that the State could not prohibit the owner of property from obtaining insurance thereon in another State.

From these decisions, it would seem clear that Sections 4580, 4583, 4588 and 7715 of the Code are valid and constitutional enactments which may be enforced by your department, and will be enforced by the Courts of the State, but that Section 4581, placing a penalty on a person procuring such insurance, on his property situated in this State, directly, and not through an agent, would be unconstitutional, and void, as repugnant to the 14th amendment to the Constitution of the United States. Section 4582 of the Code, which deals only with cases provided for in Section 4581, which is above pointed out as unconstitutional, is therefore rendered of no effect, because the unconstitutionality of Section 4581 leaves no field for the operation of Section 4582.

Referring to that portion of your letter of October 30th propounding this question—whether, if the agent procuring such unauthorized insurance had complied with Section 4581, and remitted 1 per cent of the premiums with the insurance department of this State, he would be held responsbile under the provisions of Section 4580, for any loss which might accrue on the premiums and had not been paid, and whether he would be liable to conviction and punishment under Section 7715, I

beg to advise you that, although Section 4581 was constitutional, which as above pointed out it is not, Section 4581 confers no authority upon the agent to pay to your office the one per cent on gross premiums, and if any agent remitted any such moneys to your department, your department would be without authority to receive them. An agent placing such insurance would be personally liable as provided by Section 4580, and cri...ally liable as provided by Section 7715.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LIQUOR LICENSE—MUST BE REMITTED AS REQUIRED BY SEC. 12 OF SMITH BILL—CANNOT BE PRO-RATED.

November 9, 1911.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter enclosing letter from Hon. J. P. Stiles, Judge of Probate of Jefferson County, in reference to the payment into the State Treasury of moneys collected for saloon licenses in Jefferson County, received.

The question presented, is whether or not the Judge of Probate of Jefferson County should remit to the State Treasurer the amount directed by Section 12 of the Act of the Legislature of 1911, known as the Smith Bill, out of the first moneys collected by him from such licenses, regardless of what section of the County the money came from, or whether he should prorate the license money collected, among the several towns in Jefferson County and send to the Treasurer the sum prescribed by Section 12 of the Smith Bill, charging each town in the County with its prorata part of the sum so remitted to the State Treasurer.

I have also considered in connection with this matter, a letter from Hon. Romaine Boyd, City Attorney of Birmingham, in support of the contention that these funds should be prorated, and while there seems to be a great deal of equity

in the proposition as submitted by Mr. Boyd, I can find no basis upon which the Judge of Probate would be authorized to act in making any such prorata distribution, and in the absence of such basis, I do not think the Probate Judge could make the distribution.

For reasons above pointed out, I am of the opinion, and so advise you, that the Judge of Probate is without any authority to prorate the license money paid to him under the provisions of Section 12 of the Smith Bill among the several cities and towns of Jefferson County, but it is his duty to make remittances as provided in Section 12 of the Bill, without regard to the territorial sub-division from which the license money is received.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE HIGHWAY ENGINEER ENTITLED TO EXPENSES.

November 13, 1911.

Hon. Robert E. Spragins,
Chairman State Highway Commission,
Huntsville, Ala.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 11th inst., requesting to be advised as to whether or not the State Highway Commission could require the State Highway Engineer to attend a meeting of Highway Commissioners at the expense of the State, where, in the opinion of the Highway Commissioners, it would be to the best interest of good roads in Alabama for the State Highway Engineer to be present at the meeting.

Section 2 of the Act of April 5, 1911, creating the State Highway Commission, provides among other things that the State Highway Engineer and his assistants "may be required by the Commission to attend any public meeting held by the Commission or other parties in the interest of road improvement and maintenance in the State, and the State Engineer and his assistant shall be allowed their necessary travelling

expenses while performing their official duties." The meaning of this sentence is somewhat ambiguous. There is some doubt as to whether or not it was the intent of the Legislature to provide that the State Highway Engineer might be required to attend meetings held within the State of Alabama, only. However, I am of the opinion that such was not their intent, and the strictest construction of this sentence from a grammatical standpoint seems to bear out this idea, for it would seem that the words "in the State" refer to the words "road improvement and maintenance" rather than the place where the public meeting is to be held.

It would also seem that the use of the word "any," in describing public meetings would bear out the above construction, and I am of the opinion that the Commission might require the State Highway Engineer to attend any public meeting, wherever held, so long as in their opinion this meeting was held in the interest of road improvement and maintenance in this State.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SUPERINTENDENT OF EDUCATION OF ESCAMBIA COUNTY—COMPENSATION NOT CHANGED BY CONSTITUTION.

November 16, 1911.

Hon. Frank V. Evans,
Examiner of Public Accounts,
Brewton, Ala.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 11th inst., requesting to be advised as to the validity of the Local Act of 1901, p. 146, which relates to the salary of the Superintendent of Education of Escambia County, and in which you also request to be advised as to the validity of an Act of the Legislature, Acts 1907, p. 696, which authorizes the payment by the County of Escambia of all accounts for postage stamps used by County officials of that County.

Replying to these questions, I beg to advise you, first, that the Constitution of 1901 does not affect the Act above referred to which relates to the salary of the Superintendent of Education, as this Act was adopted by the Legislature prior to the adoption of the Constitution of Alabama, and Section 96 of the Constitution in terms is to affect only future legislation.

I am of the opinion, and beg to advise you, that the Legislature was authorized to provide for the payment by the County of all accounts for stamps used by the County officials. I do not think that this Act of the Legislature is in violation of any section of the Constitution.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY BOARDS OF EDUCATION—AUTHORITY TO PURCHASE RECORD BOOKS.

November 22, 1911.

Hon. H. J. Willingham,
Superintendent of Education,
Capitol.

Dear Sir:—

Yours of this date requesting me to advise you whether the several County Boards of Education have authority to purchase at the expense of the County, record books on which said Board could require the keeping of a suitable record of attendance and of the grading and of the promotion of children in the public schools, and if so purchased, whether the cost of said record books would be a proper charge against the County under the provisions of Section 1713 of the Code, received.

After an examination of the Section of the Code above referred to, I am of the opinion and so advise you, that the County Board of Education has the power and authority to purchase such record books, and that the cost of such record books would be a proper charge against the County and should be paid by the Commissioners' Court or Board of Revenue of

the County when the claim is presented to them for audit and allowance.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BOARD OF REVENUE AND ROAD COMMISSIONERS OF MOBILE COUNTY—LEGALITY OF.

November 25, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

Replying to your letters in reference to the legality of the Board of Revenue and Road Commissioners of Mobile County and also to the salary paid to the Probate Judge as Clerk of that Board, I beg to advise you:

First. The Board of Revenue and Road Commissioners of Mobile County is a legal body, possessing the powers and duties prescribed by the general law for courts of County Commissioners, except as modified by certain statutes, to which it is not necessary now to direct your attention. There are so many acts of the Legislature recognizing the existence of this Board as a legal body that I do not consider it necessary to go into a full and detailed discussion of them, and the only one to which I shall definitely refer is the Act approved November 28, 1874, Acts 1874-5, p. 516.

Under the Act approved August 2, 1907, Local Acts 1907, p. 727, entitled An Act "To provide for the more efficient working, etc. * * of the roads of Mobile County," and Section 18 of said Act, in which the following provision is found: "The Board shall keep full and complete minutes of all meetings and may employ such clerical assistants and stenographer, if deemed necessary by the Board," the payment of the salary to the Probate Judge as Clerk of the Board for keeping its minutes, is justified and authorized by law.

Under our system there is nothing which renders it improper or illegal for the Judge of Probate to act as Clerk of the Board

of Revenue, for he is by the statutes of the State made the Clerk of the Court of County Commissioners, unless by some local statute a Board of Revenue is substituted with the Court of County Commissioners, and a Clerk of a Board of Revenue is not in my opinion an officer within the meaning of the Constitution. He is merely a clerical employee.

Prior to August 2, 1907, any salary paid the Judge of Probate as Clerk of the Board of Revenue and Road Commissioners was illegally paid to him, but he was entitled under the provisions of Section 3720 of the Code to the sum of fifteen cents per hundred words for recording the minutes and proceedings of the Board of Revenue and Road Commissioners.

I do think, however, and so advise you, that he was not entitled to three dollars per day for presiding in the Court of County Commissioners and keeping the minutes of said Court under the provisions of Section 3720 above referred to, that portion of the provisions of that Section, in my opinion, applying only when the Judge of Probate is a member of the Court.

In response to your other question as to whether or not a Judge of Probate as Clerk of the Board of Revenue and Road Commissioners is entitled to compensation for attendance upon and assistance to the Board in the matter of Tax Commissioners' raises, I beg to call your attention to the fact that this question has already been passed upon by this office, and I see no reason to change the opinions already given upon that subject.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LICENSE TAX ON CHAUFFEURS GOES TO STATE TREASURY.

November 25, 1911.

Hon. Cyrus B. Brown,
Secretary of State, ex officio Insurance Commissioner,
Capitol.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 23rd inst., requesting my opinion as to the manner of distribution of

moneys collected by you from chauffeurs as a license tax as provided by Section 23 of the Motor Vehicle Law approved April 22, 1911.

Section 7 of this Act provides for the pro-rating and distributing of the moneys collected by your department for the registration and issuing of licenses upon motor vehicles only, and in no way included the license tax on chauffeurs as required under Section 23 of the Act.

The Act itself purports to levy a State license tax, and unless as is expressly provided in Section 7, the Legislature had pro-rated the tax between the State and County or municipality, all of the moneys so collected would have gone into the State Treasury, and I am therefore of the opinion that the Legislature, not having made provision for the pro-rating of chauffeurs' licenses, that it must be considered as a State tax on chauffeurs for operating motor vehicles in the State of Alabama, and that all of the moneys so collected must go into the Treasury of the State of Alabama and remain the property of the State.

Yours very truly,
ROBERT C. BRICKELL.
Attorney General.

MOTOR VEHICLE LAW—NO TAX ON AMBULANCES.

November 25, 1911.

Hon. Cyrus B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 23rd inst., requesting to be advised if under the provisions of Section 1 of the Act regulating the operation of motor vehicles in this State (Approved April 22, 1911) a tax can be levied upon ambulances.

Upon an investigation of the Section referred to in your letter, I find that ambulances are expressly excepted from the definition of the words "motor vehicles" as defined by that

Act, and I am, therefore, of the opinion that no tax can be levied upon any ambulance being operated in this State.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

IN RE SCHOOL MATTERS—MOBILE COUNTY.

December 7, 1911.

Mr. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Ala.

Dear Sir:—

Referring further to the several questions presented to me in connection with your examination of the affairs of the public school system in Mobile, I beg to give you my opinion upon the following subjects, which will be discussed in the order as presented to me in your letters.

With reference to the right of the Board of Commissioners to borrow money for school purposes, I am of the opinion that the Local Act of 1876 is broad enough in its grant of authority to the Board of Commissioners to allow them to borrow money so long as the money so borrowed is used for school purposes and no excess interest is shown thereon and no fraud is shown in your examination with reference to such loans.

Upon investigation of the Act of 1866, which refers to a tax of five cents on the hundred dollars, to be used for building school houses, I am of the opinion that the School Commissioners must comply with the provisions of that act with reference to this money. The act provides that the School Commissioners are entitled to levy this special tax not to exceed five cents on each one hundred dollars of valuation "for the purpose of providing suitable houses, libraries and apparatus for the use of the public schools of said County.

Under the provisions of this act the School Commissioners would not be entitled to use any of the money raised under this five cents per hundred dollars assessment for any other purposes than set out in the act.

Answering your question as to the right of the School Commissioners to apportion money among the several townships, which accrued from the sale of school lands, I beg to advise you that there seems to be no restriction on the right of the Board of Commissioners to apportion the money received from the sale of school property as they deem best, except the money received from the sale of 16th Section lands must be expended in the township or district in which that section lay.

Under the provisions of the Local Act of 1876, providing for the powers of the Board of Commissioners, I find that Section 7 of this Act makes provision for the payment of the Superintendent of Education and states that the Board may ordain such compensation as they deem fit, and I am of the opinion that under this Section they are entitled to pay the board bill of the Superintendent's horse and also the premium on his bond.

Replying to your question which involves the right of the County Tax Commissioner to assess his ten per cent damages on escaped taxes raised under the special provisions of the different school laws of Mobile County, I am of the opinion that he is not entitled to commissions on these taxes. The case of Horton v. the Board of Commissioners of Mobile County, in 43 Ala. p. 598, it was held that the general revenue laws of the State passed by the Legislature should not be held to be applicable to Mobile County where they are seemingly in conflict with the special school laws of Mobile County; that it should be deemed that the Legislature did not attempt to touch its enactments on laws passed for the upbuilding and regulating of the public school system of Mobile County, and following this authority, I am of the opinion that the Tax Commissioner whose commissions accrue under the general revenue law is not entitled to any commission for the collection of escaped taxes where such taxes are raised entirely under the special school laws of Mobile County.

Replying to your letter of the 22nd inst., which refers to the license taxes required to be collected by the Probate Judge for school purposes, on certain businesses as set forth in sub-division 63 of Section 4 of the Act to regulate the system of public schools in the County of Mobile (Approved January 16, 1854) I beg to say that the provisions of this Section are

explained in a subsequent Act approved February 14, 1854 (Acts 1853 and 1854, p. 235.) which declares that the license required to be collected by the Probate Judge shall not authorize any of the employments, amusements, games, etc., but that it was the intent of the Act of January 16th, to impose an additional license tax on such amusements, etc. Therefore, it would follow under this construction of the Act that the Probate Judge shall assess an additional license tax on billiard tables and other amusements mentioned in the Act approved January 16, 1854, to be turned over to the School Commissioners and to be used for school purposes.

In my investigation of these several questions presented to me I have been somewhat handicapped because of the fact that I am not fully acquainted with all of the Local Acts relating to the public school laws of Mobile County, and these opinions given you are based upon my construction of the several acts cited by you in your letter of the 20th ult., and so far as I have been able to find, none of these acts have been repealed since 1876, and these opinions are based upon the idea that none of these acts have been repealed by the Legislature except those repealed within the acts mentioned.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LIFE INSURANCE COMPANIES—WHAT ARE RETURNED PREMIUMS.

December 8, 1911.

Hon. C. B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

Your letter submitting to me the question of whether or not dividends on life insurance premiums constitute a return premium on which the company may take credit in the payment of its tax, and also whether or not a company should pay taxes on premiums upon the lives of people living in Alabama, even if said premiums are paid through an office outside the State, or sent direct to the home office, received.

I find that the first question—that is, the question as to whether dividends should be properly credited as return premiums, has received the consideration of several of the courts of different States in the Union, especially the courts of New York and Kentucky, and that the matter has been passed upon by the Comptroller's Office in New York, which is the department having charge of these matters, and also by the Attorney General of California in a very elaborate opinion given by him to the Insurance Commissioner of California. All these authorities agree that dividends should be credited as a return premium, and I can see no reason for taking any other view of the matter, and, therefore, advise you that the companies are entitled to credit dividends as a return premium in payment of its taxes on gross premiums received.

Your second question, dealing with the payment of premiums by citizens of Alabama who became policy holders in the company before they became citizens of Alabama, calls for a construction of the language of the act approved August 31, 1909, amending Section 2089 of the Code of Alabama.

The language of that act, so far as material, is "And every other insurance company shall pay two dollars on each one hundred dollars of gross premiums, less return premiums so received in this state during the year ending on the 31st of December next preceding," as a tax for doing business in this state. The words "so received in this state" do not mean that the money must actually be paid over in this State, but they mean received from business done in this State. To hold the mere fact that a resident of this State chooses to pay his insurance premium direct to the home office or to some other agency of the company than the agency in this State, would be to put it in the power of the citizen or of the company to entirely escape taxation of this character, and the company could easily escape the payment of this tax by requiring all premiums to be paid at its home office.

I am, therefore, of the opinion, and so advise you, that a life insurance company should pay the tax provided by the Act above referred to upon premiums received by it from persons resident in this State, whether they are paid direct to the home office or through another agency.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CORN FEED MEAL NOT REQUIRED TO BE REGISTERED OR TAXED AS FEEDING STUFFS.

December 9, 1911.

Hon. Reuben F. Kolb,
Commissioner of Agriculture,
Capitol.

Dear Sir:—

Your letter requesting me to advise you whether your department should require brands of "chops" and "corn feed meal" to be registered and tagged and the stamp tax paid as in the case of other feed stuffs, received.

Your question calls for a construction of Section 1 of an act approved March 9, 1911, entitled an act "To provide for and regulate the manufacture and sale of 'commercial feeding stuffs' in Alabama; to further provide for the registration, tagging, sampling and analyzing 'commercial feeding stuffs' and to fix penalties for violations of this act."—Acts 1911, p. 104.

Section 1 of this act is: "The term 'commercial feeding stuffs' shall be held to include all feeding stuffs used for feeding live stock and poultry, except whole seeds or grains; the unmixed meals made directly from entire grains of corn, wheat, rye, barley, oats, buckwheat, flax seed, kafir, and milo; whole hays, straws, cotton seed meal and hulls and corn stover when unmixed with other material. Together with all other materials containing sixty per cent or more of water."

According to a set of definitions prepared for the association of feed control officials of the United States, which you furnished me along with your request, I find the term "chop" to be defined as follows: "A chop is a ground or chop feed composed of one or more different cereals or by-products thereof." Applying this definition to the act in question, it would seem that a chop made from the entire grain of any of the grains mentioned in Section 1 of the act above quoted, would be liable for registration and tagging as provided by the act, but if made by grinding or chopping two or more different grains or cereals or the by-products thereof, it would be liable for registration and tagging as provided by the act.

According to the same set of definitions, "corn feed meal is the sifting obtained in the manufacture of cracked corn and table meal made from the whole grain." Applying the definition there given to the provisions of the act above quoted, I am of the opinion, and so advise you, that corn feed meal is not liable for registration and tagging under the provisions of the act above referred to.

I return you herewith the definitions sent me.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

OYSTER COMMISSION CANNOT PAY TRAVELING EXPENSES OUT OF APPROPRIATION.

December 27, 1911.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Ala.

Dear Sir:—

Your letter of the 19th, requesting for me to advise you whether or not the members of the Oyster Commission have the right to pay out of the oyster fund the expenses of trips to Baltimore and New Orleans to attend Hard Shell Fish Convention received. An examination of the act of 1909, first creating this commission and the act of 1911, re-creating it does not disclose any authority for the expenditure inquired about.

I am, therefore, of the opinion, and so advise you, that the expenses of the members of the Commission on such trips are not of proper charge against the fund provided by said acts.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CLERICAL ASSISTANCE TO BOARD OF REVENUE OF MOBILE COUNTY—AUTHORITY OF BOARD TO PURCHASE TYPEWRITERS.

December 30, 1911.

Hon. Chas. E. McCall,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter of December 22nd, submitting two questions to me received.

Your first question is "Has the Board of Revenue and Road Commissioners of Mobile County the power to employ and fix the compensation of such clerical assistants as it may deem necessary to the proper discharge of its duties, and if it has, when did such power begin."

Section 18 of an Act approved August 2nd, 1907, dealing with the Board of Revenue and Road Commissioners of Mobile County provides that the Board shall keep full and complete minutes of all its meetings and may employ such clerical assistants and a stenographer if deemed necessary. By the provisions of this Act the Board may employ such clerical assistants as it deems proper and may pay them such compensation as it deems proper, provided, the payment is made for clerical assistance as contemplated by the Act and not for other purposes.

Your second question is, "Has a Court of County Commissioners the power to purchase and furnish to the Probate office, at the County's expense, typewriters for recording purposes?"

According to a former opinion given from this office, typewriters for the use of County officials were not a proper charge against the County and should not be allowed as such; however, the situation of the Probate Judge with reference to this matter is somewhat different.

Section 5442 of the Code is as follows: "The Judge of Probate must be allowed reasonable expenses for suitable books, stationery and seal of office to be paid by the County."

> "A statute must be construed as to give effect to the legislative intent and not so as to defeat that intent."

"Taking the history of the statute, the defects which existed, and which it was intended to remedy, and the rule of construction, that we must look rather to the intention than the letter of the law, our conclusion is, that the statute was intended to apply, and does apply, to materials furnished for the erection of separate houses on the same lot under one general contract. 'The meaning of the Legislature may be extended beyond the precise words used in the law, for the reason or motive upon which the Legislature proceeded, from the end in view, or the purpose which was designed. "U. S. v. Freeman, 3 Howard, 565. 'A thing within the intention of the makers of the statute is as much within the statute as if it were within the letter.'—U. S. v. Rabbit, 1 Black, (U. S.) 61. 'The intention of the law-maker constitutes the law. A think may be within the letter of the statute and not within its meaning, and within its meaning and not within its letter.'—Atkins v. Disintegrating Co., 18 Wall, 381;" Cocciola et al., v. Dickerson Supply Co., 136 Ala. 537.

In construing the word "stationery" as used in this section of the Code, the Supreme Court of Alabama in the case of Crook v. Commissioners Court, 144 Ala. 505, quotes several definitions of the word stationery. "Webster defines stationery to be such articles as are usually sold by stationers, as paper, ink, quills, pens, blank books, etc. The Standard defines it to be writing materials in general, including paper, envelopes, blank-books, pens, ink, etc., a term of somewhat indefinite extent, sometimes restricted to notepaper and envelopes; as 'His stationery bears a brest'."—Stationery Dictionary.

"Under the name of stationery are embraced all writing materials and implements, together with the numerous appliances with the desk, and of mercantile and commercial offiies. In addition to the use, the term fancy stationery covers a miscellaneous assembly of leather and other goods, such as pocket-books, bags, card-cases, and many kindred articles, which cannot be classified."—Americanized Encyclopedia Brittanica, Vol. 9, p. 555.

These definitions of the word stationery having been approved by our Supreme Court in the Crook case, supra, and a special definition of the word stationery, as embracing all writing materials and implements, and the typewriter certainly being a writing implement, I am constrained to hold that the word stationery, as used in Section 5442 of the Code, would include typewriters.

I am further constrained to this opinion by reason of the fact that prior to the adoption of the present Code typewriters for the purpose of recording instruments had come into common use and section 3368 of the present Code as amended by the Code Committee provided, among other things "Conveyances of real estate must not be recorded with a type machine." But on the 23rd of November, 1907, at an extra session of the Legislature held after the adoption of the present Code but before it became effective an Act was passed, Acts Special Session 1907, p. 80, authorizing the use of typewriters or other writing or printing machines for the purpose of recording instruments entitled to registration.

I am, therefore, of the opinion, and so advise you, that under Section 5442 of the Code an allowance for typewriters in the office of the Probate Judge is a proper charge against the county.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SALARIES OF EXCISE COMMISSIONERS IN CITIES OF CLASS E.

January 3, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter requesting me to advise you as to the salaries of Excise Commissioners in cities of Class E, received.

The provisions pertinent to this matter are found in Sections 4 and 5 of the Act of the last Legislature, known as the Smith

Bill. Section 4 prescribes what cities shall constitute cities of Class E.

The provisions of Section 5, so far as pertinent, are: "In all cities and towns of less than ten thousand population, these being the cities of Class E, the chairman of said Commission shall receive five dollars per day while actually engaged in the duties of their respective offices, but such compensation shall not exceed one hundred dollars per annum and one hundred dollars for each associate member per annum. Such sums of money to be paid out of the State Treasury on the warrant of the auditor upon the certificate of the Governor. The chairman of said Commission shall appoint a chief clerk to be approved by the Governor whose salary shall be one-half of the sum paid to the chairman of said Commission." Said Section then goes on to provide as to the cities of the different classes, that the Probate Judge shall retain certain moneys to be paid into the State Treasury as a special fund for the payment of the salaries of the Commissioners and the clerk, but makes this provision, "No deduction shall be made for salaries or other expenses in cities of Class E, except the commission allowed the Probate Judge."

From these sections it is evident that the Legislature placed the entire burden of paying the Commissioners and the clerk in cities of Class E upon the State Treasury and none of the burden upon the cities or Counties.

I am further of the opinion and so advise you that whenever the accounts of the Commissioners and clerks, up to the amount authorized by law, are approved by the Governor, it is your duty to draw a warrant upon the State Treasurer without regard to the fact that the year of service may not have expired.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

AUTOMOBILE DEALER'S LICENSE NOT TRANSFERABLE.

January 4, 1912.

Hon. Cyrus B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

Your request that I advise you upon the communication of the Keystone Auto Company, received.

From this communication it appears that the Keystone Auto Company desires to purchase, and has made arrangements to purchase, the business of the Sowell Auto Company, of Mobile, and they desire to know whether they can have the benefit of the license already issued the Sowell Auto Company for the current year.

Upon examination of the Act known as the Motor Vehicle Law, I find that provision is made for the license upon each manufacturer or dealer in motor vehicles in Section 7 of said Act, and also, in said Section 7 provision is made for the licensing and numbering of automobiles.

By Section 8 of said Act provision is made for the sale of an automobile and the use of the number by the purchaser, but no such provision is made anywhere in the Act for the transfer of the license of the dealer.

I am, therefore, of the opinion, and so advise you, that a dealer's license is not transferable.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

MACON COUNTY—FEES OF SHERIFF.

January 4, 1912.

Hon. Frank V. Evans,
Examiner of Public Accounts,
Tuskegee, Alabama.

Dear Sir:—

Your letter of the 30th ult., in which you request me to advise you as to the fees of the Sheriff of Macon County in the County Court, received.

The Acts to which you call my attention are the Act of 1890-91, p. 1256, and the Act amending Sec. 18 of that Act, Local Acts 1903, p. 470.

It is not necessary to consider the Act of 1890-91, but only the Act of 1903 above referred to. The Act approved October 1, 1903, amending Sec. 18 of the Act of 1890-91, is in my opinion unconstitutional, in that it attempts to increase the fees of the Sheriff in violation of sub-division 24 of Section 104 of the Constitution, and also in violation of Section 96 of the Constitution.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

WITNESS FEES—FINE AND FORFEITURE FUND.

January 10, 1912.

Hon. Frank V. Evans,
Examiner of Public Accounts,
Tuskegee, Alabama.

Dear Sir:—

Your letter of the 3rd inst., submitting to me two questions in reference to the payment of witness fees in criminal cases, received.

Your first question is, "When the law allows witnesses in criminal cases one dollar per day and the convict law for felony cases allows only seventy-five cents per day, is the Fine and Forfeiture Fund of the County liable for the twenty-five cents' difference?"

In reply to this question, I beg to advise that this matter is controlled by Sections 6659, 6660 and 6666 of the Code, and not by Section 6572, which provides the amount which shall be paid out of the convict fund. The provisions of Section 6572 can not be taken as amending the provisions of Section 6659 as to the pay of witnesses so as to reduce the amount to which they are entitled. Its only purpose is to provide for the payment of the amount therein specified, to-wit; seventy-five cents by the convict department; but it does not reduce

the amount to which the witness is entitled under Section 6659 of the Code.

Your second question is, "When the County hard labor convicts are hired at twelve dollars per month and the rate of seventy-five cents per day is allowed said convict in working out his sentence, is the Fine and Forfeiture Fund of the County liable for cost of prosecution in excess of amount received by the County for such hire?"

Section 6660 of the Code governs this matter in connection with Section 6666 of the Code, and whenever the witness is entitled to his fees under the provisions of Section 6660 of the Code, he is entitled to his certificate under Section 6666 of the Code, and it can make no difference to him or to the validity of his claim, what the County realizes from the hire of a convict.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SALOONS IN HOTELS.

January 10, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Yours enclosing letter from Chairman Agee of the Jefferson County Excise Commission, received.

It appears from Mr. Agee's letter that he desires to be informed whether a license to operate a saloon in a hotel which is granted to someone other than the owner or proprietor of the hotel is a license which would have to be counted in the number of licenses under the provisions of Section 7 of the Act of the last Legislature known as the Smith Bill.

The provisions of Section 7 of the Smith Bill, so far as pertinent, are, "Provided that the license issued to bona fide hotels having thirty or more rooms, in cities of Class A, B or C, shall not be counted or considered in determining the number of licenses which may be issued under the foregoing provisions of this Section."

The Legislature is supposed to legislate to meet conditions and in view of known customs.

When saloons were licensed in Alabama, prior to the adoption of the recent prohibition laws, it was a custom in this State that hotels have saloons operated in the building in which the hotel was situated, and somewhat in connection with the hotel, generally referred to as hotel bars. These bars were not always owned or operated by the hotel or the owners or proprietors of the hotels, but were often operated by other parties, but in either event they were generally known and considered as hotel bars.

In view of these facts, and of the language employed by the Legislature, I am of the opinion and so advise you that a saloon operated in a hotel building in connection with the hotel, although by some person other than the owner or proprietor of the hotel, would not be a license which should be counted in determining the number of licenses to which a city of Class A, B or C is entitled.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

HEALTH DEPARTMENT—APPROPRIATION FOR AND INCREASE OF SALARY OF STATE HEALTH OFFICER.

January 10, 1912.

Hon. Charles E. McCall,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter referring to me the question as to whether or not the State Health Officer was entitled to receive an increase in his salary during the term for which he was elected, and also the question as to whether the State Board of Health was required at the end of the fiscal year to pay over to the State Treasury any unexpended balance in the hands of the executive officer of the Board of Health under the Act approved April 22, 1911, entitled an Act "To amend Section 733 of the Code," Acts 1911, p. 621, received.

In reply, I beg to advise you that in my opinion the State Health Officer is clearly a State officer within the provisions of Section 281 of the Constitution of this State, and that under the provisions of that Section he is not entitled to receive any increase in salary during the term for which he shall have been elected.

In reply to your second question, I beg to advise you that the provisions of the Act above quoted require that an itemized account of all expenses under this Section shall be rendered annually to the Governor. The purpose of the Act is to make an appropriation of not exceeding twenty-five thousand dollars to the State Health Department to carry out the objects mentioned in the act. It was not the purpose of the act to allow any accumulation of that sum, but to limit the expenditures within any one year to the sum appropriated by the act, and therefore, if at the end of the fiscal year the sum appropriated has not been used, it seems clear to me that the unusued balance must be returned to the State Treasury, and that this intent of the Legislature is further evidenced by the fact that a report of the amount expended is required to be made to the Governor.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE HEALTH OFFICER—MAY DRAW SALARY FROM MEDICAL DEPARTMENT OF UNIVERSITY.

January 10, 1912.

Hon. Charles E. McCall,
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter of the 8th inst., in which you inquire whether the State Health Officer can draw a salary fixed under the provisions of Section 704 of the Code of 1907, and can also legally draw his salary as a member of the faculty of the Medical Department of the University of Alabama, received.

In reply I beg to advise you that, in my opinion, he can do so, as a member of the faculty of the Medical Department of the University is not in any sense an officer. He is a mere employee and cannot be held to be an officer within the meaning of our constitutional provisions.

I am, therefore, of the opinion, and so advise you, that the State Health Officer can legally draw his salary as State Health Officer and also his salary as a member of the faculty of the Medical Department of the University of Alabama.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ENDORSEMENT OF WARRANTS—PENSION WARRANTS.

January 11, 1912.

Hon. John Purifoy,
State Treasurer,
Capitol.

Dear Sir:—

Your letter of the 10th inst., requesting me to advise you in reference to certain matters in connection with the payment of warrants, received.

Your first question is whether the endorsement of an auditor's warrant by the payee is a receipt sufficient to comply with sub-division 3 of Section 624 of the Code. There is no precise form of a receipt. A receipt is simply an evidence in writing showing that the party to whom the warrant is payable has received payment thereof, and an endorsement of the warrant in view of the established practices which have always prevailed in commercial transactions and business matters, is, in my opinion, a sufficient receipt to comply with the requirements of sub-division 3 of Section 624 of the Code.

Your second question seeks to be informed as to the requirements necessary to make an endorsement made by the representative of the payee a legal endorsement, and your third question is that, if a legal power of attorney is required, whether the power of attorney should be recorded in the County of the residence of the payee, and a certified copy of

the power of attorney furnished you as Treasurer. These two questions may be considered together. You are certainly not authorized to pay a warrant upon the endorsement of the representative of the payee unless you have some authority in writing from the payee showing the authority of the representative to make the endorsement. If there is a general power of attorney sufficient to authorize the representative to make the endorsement which is of record in the County of the residence of the payee, and you have a certified copy of such power of attorney as it appears upon the record, then you would be authorized to pay the warrant upon the endorsement of such representative, or, if there was no power of attorney of record in any County authorizing such endorsement by a representative of the payee, and the payee should give you a written instrument specifically authorizing any person to endorse warrants payable to him, then you would be authorized to pay the warrant upon the endorsement of such person whether the instrument conferring that power was recorded or not. The power of attorney which you enclose me in blank is in my opinion a sufficient power of attorney. If witnessed by two witnesses it is not necessary that it be acknowledged by an officer, and if recorded in the County of the residence of the payee and a certified copy furnished you, I think you would be authorized to pay a warrant payable to the party executing the power of attorney to the party so authorized by that power to receive payment.

In your letter you state that you find a great many warrants issued to Confederate pensioners reach your office with the name of the payee endorsed by another, not accompanied by any authority by the payee authorizing such endorsement. In my opinion, you are not protected in paying such warrants, and it is your duty not to pay such warrants, but to refuse payment thereof.

You further state in your letter that during the past year several cases have come to your knowledge in which the pensioner has been dead for several years and the warrants have been regularly issued and collected after his death, nothing showing that the pensioner has died. Where you know of such facts it is your duty not to pay the warrants, and also to notify the State Auditor of the facts, in order that the names

of such deceased pensioners may be stricken from the pension roll and that no more warrants may be issued.

You further state that many pensions are collected regularly through agencies, which indicate that the payee was in another State than Alabama. It is your duty in such instances to communicate these facts to the proper authorities in order that an investigation may be had, and if the investigation establishes that the parties receiving the pensions are not residents of this State their names may be stricken from the pension roll. Of course, in the instance last recited you are not justified in withholding payment of the warrant until the proper authorities have investigated the facts and the names of those persons stricken from the roll.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PURCHASE OF SCHOOL BOOKS.

Montgomery, January 18, 1912.

Hon. H. J. Willingham,
Superintendent of Education,
Capitol.

Dear Sir:—

I beg to acknowledge receipt of your request to be advised with reference to the authority of yourself and the director of the Department of Archives and History relative to contracting for books to be purchased for use in libraries of the public schools of this State under the provisions of the Act approved April 13, 1911, providing for such libraries.

In answer to your request, I beg to advise you that I am of the opinion that Section 4 of this Act constitutes the State Superintendent of Education and the Director of the Department of Archives and History, a board for the purpose merely of compiling a list of books and of setting out the maximum prices that may be paid for any such books. It necessarily follows that in order to fix the maximum price this board must necessarily fix the edition of the book to be purchased. However, I am of the opinion that this is as far as the authority

of this board extends, and that under Section 6 of this Act the district Board of Trustees is made the purchaser of these books and that they may purchase them from any one whom they may select so long as it is of the edition selected by the State Superintendent of Education and the Director of the Department of Archives and History, and for a price not exceeding the price set out in the list prepared by these officers.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

POLL TAX—PAYMENT OF—EFFECT OF ABSENCE FROM STATE ON.

January 23, 1912.

Hon. Charles E. McCall,
Chief Examiner of Public Accounts,
Montgomery, Ala.

Dear Sir:—

On the 18th inst., you requested me to advise you as to the liability for poll tax of a man who lived in the State of Alabama in the years 1906 and 1907, moved out of the State in the year 1908, and returned to the State in 1909, and has paid his poll tax for the years 1909, 1910 and 1911.

The question is, as to whether or not such person is liable for the poll tax due for the years 1906 and 1907 before he may be qualified as an elector for this State. The Constitution of 1901 provides that "he shall have been duly registered as an elector, and shall have paid, on or before the first day of February next preceding the date of the election at which he offers to vote, all poll taxes due from him for the year 1901 and for each subsequent year.

Your question involves the construction of this article of the Constitution. It is clear that if such person had offered to vote in this State during the years 1906 and 1907 he would have been ineligible unless the poll tax for these years had been paid, and being a resident of this State during these years, the poll taxes for these years were due from him. I am,

therefore, of the opinion that he would be required to pay for these years before he would be entitled to vote, even though it appears that during the year following the years 1906 and 1907 he was a non-resident of this State. I do not think that the non-residence of such person would wipe out the fact that these poll taxes were due from him, and I, therefore, advise you that such person must pay the poll tax for all the years since 1901, during which he was a resident of this State, and I further advise you that, if, during the year 1908, while such person was out of the State, such non-residence was merely temporary, that the law would also require the payment of the tax for the year of such temporary absence. And certainly, if his absence were temporary, he would be required to pay taxes for all previous years of his residence subsequent to 1901. If, however, the removal from the State was with the bona fide intention of changing his residence that he would not be liable for the tax during the years of such non-residence.

Yours very truly,
WILLIAM L. MARTIN,
Assistant Attorney General.

INCREASE OF CAPITAL STOCK—CHARTER FEE UPON.

January 26, 1912.

Mr. Frank V. Evans,
Examiner of Public Accounts,
Marion, Alabama.

Dear Sir:—

Yours requesting me to advise you whether, when a bank had its charter extended and at the same time increased its capital stock, it was liable for a charter fee upon the whole of the capital stock or only upon the amount of the increase, received.

In reply, I beg to advise you that, in my opinion, it would be liable only for the fee of one dollar upon every thousand dollars of the capital stock so increased.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FOREIGN INSURANCE COMPANIES—TAXATION OF.

January 26, 1912.

Hon. Cyrus B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

Yours calling my attention to the fact that the answer given by this office on July 3rd, to your inquiry of June 29th, in reference to taxation of foreign insurance companies under the Act To further provide for the revenue of the State of Alabama, Acts 1911, p. 159, did not fully cover the question as to the liability of a foreign insurance company for the corporation tax provided by Section 12 of said Act, received.

In reply, I beg to advise you that, in my opinion, such foreign insurance company is liable for the tax imposed by Section 12 of the Act above referred to.

An examination of Section 4 of the Act, under which it is contended that these companies are not liable for the tax imposed by Section 12 of the Act, will show that there are no words in Section 4 which tend to make that tax an exclusive tax such as are found in the provision of Section 3 of said Act in reference to sleeping car companies, Section 2 of said Act in reference to Express companies, and Section 1 of said Act, in reference to telephone companies.

The tax provided in Section 4 of said Act is graded according to the amount of premiums received from business done in this State, and is payable to you as Insurance Commissioner.

The tax provided in Section 12 does not depend in any manner upon the amount of business done in the State, but upon the amount of capital employed in the State, and is not payable to you as Insurance Commissioner, but to the Judge of Probate of some County in which the capital is employed.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CORPORATION TAXES.

January 26, 1912.

Hon. C. B. Smith,
Auditor,
Capitol.

Dear Sir:—

Your letter of the 20th inst., enclosing a letter from Hon. John C. Hardaway, and requesting me to advise you thereupon, received.

The first proposition submitted by Mr. Hardaway, is, where a corporation was not required to pay a specific privilege license for engaging in business, and which corporation did not pay any corporation tax or license tax during the year 1911, for what sum was that corporation liable as a corporation tax for the year 1911.

In reply to this question, I beg to advise you that in January, 1911, such corporation became liable for the tax as provided by sub-division 26 of Section 2361 of the Code, but that on May 31, 1911, the act to further provide for the revenues of the State of Alabama, approved March 31, 1911, became effective, which rearranged and changed the corporation tax. Thereupon, the State Board of Compromise, in order to prevent inequalities, provided that such corporation as had paid the tax should be allowed a credit on the annual franchise or privilege tax exacted under the provisions of Section 12 of the act of 1911 above referred to of seven-twelfths of the tax so paid by them, and should be charged seven-twelfths of the tax imposed under the act of 1911.

Applying the principles of the order of the Board of Compromise above referred to to the case presented, it would appear that such corporation should pay for the year 1911, five-twelfths of the tax as imposed by sub-division 26 of Sec. 2361 of the Code, and seven-twelfths of the tax imposed by Section 12 of the act of 1911, above referred to.

The second question propounded by Mr. Hardaway is, where a corporation was not required to pay a specific privilege license for engaging in business, and did pay a corporation or license tax, under Section 2361, sub-division 26 of the Code of 1907, but did not pay any tax under the provisions of Sec. 12 of the Act of 1911, above referred to, what tax should such corporation pay.

In reply I beg to advise you that under the order of the Board of Compromise above referred to, such corporation should pay seven-twelfths of the tax provided in the act of 1911, receiving credit thereon for seven-twelfths of the tax already paid by it under sub-division 26 of Section 2361 of the Code, provided such credit did not exceed the amount required to be paid under the act of 1911 above referred to.

The third question propounded by Mr. Hardaway is, where the corporation was required to pay a specific privilege license for engaging in business, but did not pay a franchise or license tax as a corporation at any time during the year 1911, what tax should such corporation pay as a corporation tax under the acts of 1911.

In reply I beg to advise you that under the order of the Board of Compromise above referred to, such corporation should pay and is required to pay for the year 1911, seven-twelfths of the tax imposed by the act of 1911, above referred to.

Mr. Hardaway further desires to know whether such tax should be imposed upon the corporation whether engaged in doing business during the year 1911, or not.

In reply, I beg to advise you that I have formerly passed upon this question, holding the view that this is a tax imposed, not for the doing of business, but upon the right to exist as a corporation, and that therefore, all corporations which legally continue in existence, are liable for this tax regardless of whether or not they are engaged in business.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

POLL TAXES—EXEMPTION FROM.

January 26, 1912.

Hon. C. B. Smith,
State Auditor,
State Capitol.

Dear Sir:—

Your letter of the 17th inst., enclosing letter from Hon. P. B. Dorlan, Tax Collector of Mobile County, in reference to

the exemption from liability for poll tax of a person who is totally blind in one eye and does not own any property, received.

Sub-division 6 of Section 2061 of the Code is as follows: "From poll tax, all persons permanently disabled, whose taxable property does not exceed five hundred dollars."

The general rule is that all exemptions from taxation must be construed most strongly against the claim of exemption, and if there are any words in the statute creating the exemption, tending to modify the word "permanently disable" so as to show the legislative intent in creating the exemption, these words must be construed most strongly to advance the legislative intent. It cannot, therefore, from the statute be doubted that it was the purpose of the statute to extend this characer of relief to all persons who were permanently disabled and did not possess taxable property to the amount of five hundred dollars. It cannot be said that the loss of an eye is not a permanent disability.

I am, therefore, of the opinion, and so advise you, that one totally blind in one eye is permanently disabled within the meaning of sub-division 6 of Section 2061 of the Code.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CO-OPERATIVE CORPORATIONS—NOT LIABLE FOR CERTAIN FEES.

January 27, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Bay Minette, Alabama.

Dear Sir:—

Yours of the 23rd inst., in reference to the liability of the Fairhope Single Tax Corporation for a tax, received.

This corporation, as I understand from your letter, was incorporated under the Act entitled An Act "To provide for the organization and regulation of corporations not for pecuniary profit in the sense of paying interest or dividends on stock,

but for the benefit of its members through their mutual co-operation and association."—Acts 1903, p. 342. This Act makes no provision for any capital stock, expressly providing that corporations organized thereunder shall be without capital stock. Section 12 of the Act approved March 31, 1911, entitled An Act "To further provide for the revenues of the State of Alabama, Acts 1911, p. 159, provides that the franchise tax therein fixed shall be graded according to the paid up capital stock.

This corporation having no capital stock and not being organized under a statute which contemplates that it shall have capital stock, I am of the opinion, and so advise you, that it cannot be liable for any franchise tax under the provisions of said act, nor for the same reason, can it be liable for the franchise tax imposed in the Code of 1907.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHERIFFS—EX-OFFICIO FEES OF.

January 27, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Bay Minette, Alabama.

Dear Sir:—

Your letter of the 23rd inst., requesting me to advise you whether certain items were a proper charge as ex-officio fees for the services of a Sheriff, received.

The Code fixes the maximum amount which may be allowed a Sheriff for his ex-officio services, and prescribes, generally, what are ex-officio services, as follows: "Empanelling grand juries, advertising and attending elections in his county, and for all other public services not otherwise provided for." The jurisdiction of the Court of County Commissions to fix the amount which they will allow for these ex-officio services is limited only to the amount prescribed in the Code, Section 3722. If there are any items in the verified account for which ex-officio services could be properly allowed, and other items which could not be properly allowed, it will be presumed that

the court of county commissioners made its allowance upon the items which could be properly allowed, and so long as the allowance does not exceed the amount allowed by law, it can make no difference that the account may contain some items which were not proper charges.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PROBATE JUDGE—NOT CHARGEABLE FOR ACTS AS INDIVIDUAL.

Hon. C. E. McCall,
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

Yours of this date requesting me to advise you upon the excuse presented by Price Williams, Jr., as Judge of Probate of Mobile County, as a reason why he should not be charged with the amount charged against him as Probate Judge for clerical services rendered the Board of Revenue in equalization proceedings, received.

Judge Williams contends, first, that this is not a proper item of charge against him as Probate Judge, first, because said compensation was paid under and pursuant to regular orders or decrees of said Board, for clerical services actually rendered to it, the said Board being authorized by law to order the paying of said compensation.

Under an opinion heretofore given you, which I see no reason to change, this, his first objection, is not good.

His second objection is because all of said compensation was paid to the Clerk of said Board as such Clerk, for services rendered as such Clerk, and no part thereof was paid to or received by defendant as Probate Judge.

The report of the Examiners seek to charge this amount to Judge Williams as Probate Judge, and as collected in his official capacity as such, and does not seek to charge him in any other way. Even if the Examiners could properly charge an individual for moneys improperly received by him, a ques-

tion which it is not necessary to determine, it is certain that the charge here made is against him in his official capacity, and from the report of the Examiners it is also clear that the money was not paid to or received by him in such capacity.

I am, therefore, of the opinion, that the second showing or defense made by Judge Williams as to this charge is good, and that he shows good cause why this amount should not be charged against him as Probate Judge.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BALDWIN COUNTY—FINE AND FORFEITURE FUND OF AND COMMISSION OF TAX ASSESSOR IN.

January 31, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Bay Minette, Alabama.

Dear Sir:—

I acknowledge receipt of your letter of the 18th inst., requesting to be advised as to whether or not the County Treasurer of Baldwin County can transfer funds from a general fund, to the Fine and Forfeiture Fund, under the provisions of the Local Act approved December 16, 1898; also requesting to be advised as to whether or not the Tax Assessor of Baldwin County is entitled to commission under the Local Act of February 28, 1901, authorizing a two mill tax for the schools of said County.

Answering your first question, I beg to state that I have not been able to find the decision of the Supreme Court mentioned in your letter, but I am of the opinion that it would not affect the question here involved. The Fine and Forfeiture fund is within the control of the Legislature. The general fund is within the control of the County Board of Commissioners only for the purposes authorized by the Legislature. As it appears from this Local Act (Local Acts 1898-9) that the transfer mentioned is authorized, I advise you that such transfer is legal and no charge can be made

against an officer for complying with the provisions of this Act.

Answering your second question, I beg to advise you that under Section 2097 of the Code of Alabama, the Tax Assessor of Baldwin County is entitled to commissions out of the taxes assessed under the provisions of the Act of February 28, 1901 (Acts 1901, p. 1446) and these commissions should be taken from the amount of taxes collected under this act. The pay of the Tax Assessor is upon the commission basis, and the use of the word "commission" implies that the pay should come out of the tax collected, and therefore, the tax assessor's commission should be deducted from the moneys collected under the Local Act.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BALDWIN COUNTY—EX-OFFICIO FEES OF SHERIFF IN—PAYMENT OF ELECTION OFFICERS.

January 31, 1912.

Mr. J. T. Gorman,
Examiner of Public Accounts,
Bay Minette, Alabama.

Dear Sir:—

I acknowledge receipt of your letter of the 18th inst., requesting to be advised (1) as to whether or not Local Act of 1883 referring to ex-officio fees of the Sheriff of Baldwin County, has been repealed; (2) asking to be advised as to whether or not the Treasurer should pay claims to election officers under Section 419 of the Code without such claims having been audited by the County Board of Commissioners.

Replying to your first question, I beg to advise you that, while there is no repeal of the Local Act of 1883 contained within the Section of the Code referring to Sheriff's ex-officio fees, still, it will be found upon investigation, that this Section of the Code is based upon an Act approved August 9, 1907. This Act of August 9, 1907 does change the ex-officio fees to the amounts as now stated by the Code,

and Section 2 of said Act provides that all laws, general, special, or local, in conflict with the provisions thereof, are repealed. I therefore advise you that since the approval of this Act, the Sheriff of Baldwin County could claim ex-officio fees only under the general law as now set out in the Code of Alabama.

Answering your second question, I beg to advise you that from a reading of Section 419 of the Code, it is clear that the claims of election officers for their per diem and mileage is a valid claim against the County Treasurer, and no matter whether allowed by the Court of County Commissioners, or not, the Treasurer would not be liable on his official bond for such payment, if he paid no more than was due to such election officers.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PHOSPHATE ROCK WHEN NOT TAGGED AND SOLD AS FERTILIZER.

January 31, 1912.

Hon. Reuben F. Kolb,
Commissioner of Agriculture and Industries,
Capitol.

Dear Sir:—

Your letter of this date requesting me to advise you whether ground phosphate rock which is neither water soluble or citric soluble could be tagged and sold as fertilizer under the laws of this State, received.

In reply, I beg to advise you that, in my opinion, it being neither water soluble or citric soluble as provided in Section 36 of the Code, nor containing 14 per cent of plant food as provided in Section 38 of the Code, it cannot be tagged and sold as fertilizer under the laws of this State.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ALABAMA GIRLS' TECHNICAL SCHOOL—PAYMENT OF INTEREST TO.

April 27, 1912.

Judge John Purifoy,
State Treasurer,
Capitol.

Dear Sir:—

Your letter of this day requesting me to advise you as to whether the Alabama Girls' Technical School is entitled to receive the amount of $8,974.87 interest paid by the Markley Coal Company upon the indebtedness due by it for the purchase of certain lands held by the State of Alabama in trust for the said school received.

I have examined sections of the Code and the Act of the Legislature of February 28, 1907, with reference to payments due this school, and also the mortgage from the Markley Coal Company to the State securing the purchase of these lands. The money paid into the Treasury, about which you inquire, is interest on money due for the purchase of the lands. The principal of the purchase money has never come into the hands of the State so as to be subject to the provisions of the Act or the sections of the Code above quoted.

This money is purely interest money due by the State as trustee to the school, and not interest on principal held by the State under the provisions of said Act.

I am, therefore, of the opinion, and so advise you, that the entire sum paid in on the interest notes becomes immediately due and payable to the Alabama Girls' Technical School upon its receipt by you as Treasurer.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE GEOLOGIST—SALARY OF.

April 24, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter referring to me the communication from Dr. Eugene A. Smith, State Geologist, in reference to his salary as State Geologist in the event he should determine to retire from active connection with the faculty of the University of Alabama and give up active teaching received.

Section 689 of the Code of 1907 is as follows:

> "Eugene A. Smith, Professor of Mineralogy and Geology in the University of Alabama, is State Geologist. In the event of a vacancy in the office of State Geologist, from any cause, the Professor of Geology in the University of Alabama shall be ex-officio State Geologist."

This section is in lieu of Section 2241 of the Code of 1896, which is as follows:

> "The Professor of Mineralogy and Geology in the University of Alabama is ex-officio State Geologist."

The words "professor of mineralogy and geology in the University of Alabama" following the name "Eugene A. Smith" are descriptions personae, pointing out the particular Eugene A. Smith to whom reference is made, and are not descriptive of the character in which he holds the office.

Construing Section 689 of the Code of 1907 in connection with Section 2241 of the Code of 1896, it is clear that it was the Legislative intention that Dr. Smith should be the State Geologist, whether connected with the University of Alabama as Professor of Mineralogy and Geology or not.

If Dr. Smith should give up his duties as Professor of Mineralogy and Geology in the University of Alabama and cease to receive the full salary as such Professor from the University, he would clearly be entitled to receive the salary of $200.00 per month as provided by Section 693 of the Code of 1907.

Yours very truly,

ROBERT C. BRICKELL,
Attorney General.

SHERIFF'S FEE IN INFERIOR COURT OF PRECINCTS 10, 34 AND 46 OF JEFFERSON COUNTY.

Hon. Emmet O'Neal, April 24, 1912.
Governor,
Capitol.

Dear Sir:—

Your letter of the 22nd inst., enclosing letter from Judge E. W. Booker, and requesting me to advise you thereon received.

The question upon which Judge Booker desires to be advised is whether the Clerk of the Inferior Court for Precincts 10, 34 and 46 in Jefferson County can pay the Sheriff his fees in criminal cases in which the State has failed to sustain a conviction.

The provision for the payment of fees to the Sheriff by the Clerk is found in Section 4 of the Act establishing the Court. Local Acts 1911, p. 148, and so far as pertinent is as follows:

> "The Constables of said Precincts and the Sheriff of said County shall be officers of said Court and shall execute all processes from said Court and make due return thereof, and for their compensation shall receive the same fees and emoluments as are now provided by law for like services in the Courts of the Justices of the Peace in said Precincts which said fees shall be paid to the Sheriffs and Constables and not into the County Treasury."

The language of this section of the Act must be construed in connection with the general law governing the payment of officers' fees in criminal cases in which a conviction has not been had.

I am, therefore, of the opinion, and so advise you, that the Clerk of the Inferior Court for Precincts 10, 34 and 46 in Jefferson County should not pay over to the Sheriff his costs in criminal cases in which there has not been a conviction, but should pay the same to the County Treasury as required by the Act creating the Court.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PUBLIC EATING HOUSE—WHAT CONSTITUTES.

Hon. C. B. Smith, April 22, 1912.
State Auditor,
Capitol.

Dear Sir:—

Yours referring to me a communication from Hon. J. B. Stiles, Judge of Probate of Jefferson County, and requesting me to advise you thereon received.

Judge Stiles desires to be advised as to whether under the following statement of facts, to-wit: that a party in running a soft drink stand in connection with a drug store, and in connection with this soft drink stand sells light lunches, sandwiches, pies, coffee and milk, from 12 to 2 o'clock in the day; nothing but the coffee being prepared in the place of business, is liable for the tax imposed under Section 28 of the Revenue Bill.

The language of Section 28, so far as is pertinent is, "Each restaurant, cafe or public eating house where meals are served and charged for, shall pay."

That this is a public eating house there can be no question, and it would seem that lunches such as are referred to in the letter of Judge Stiles would come under the term meals as used in the Act.

I am, therefore, of the opinion, and so advise you, under the facts stated, that this is a public eating house liable for the tax imposed by Section 28 of the Revenue Bill.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BOARD OF EDUCATION—VACANCIES IN.

April 20, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter requesting me to advise you as to the filling of vacancies in Boards of Education in cities of less than 6,000 population, received.

In reply, I beg to advise you that no provision is made for the filling of vacancies in such offices except under the Act approved August 25th, 1909, entitled "An Act to provide for the filling of any vacant office of the State, or any County or municipality where there is no provision of law for filling such vacancy."—Acts Special Session, 1909, p. 156.

Under that Act it is made the duty of the Governor to appoint to fill all vacancies where there is no other provision made therefor.

I am, therefore, of the opinion, and so advise you, that all vacancies in Boards of Education in cities of less than 6,000 inhabitants should be filled by appointment by you.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CLERK'S COMMISSIONS IN GAME AND FISH MATTERS.

April 20, 1912.

Hon. John Purifoy,
State Treasurer,
Capitol.

Dear Sir:—

Your letter of the 12th, in which you requested me to advise you whether the Clerk of a Circuit Court is entitled to deduct a commission of 5 per cent on fines collected by him for violation of the Game and Fish laws of this State received.

I do not find any provision in the Game and Fish Laws or in the General Laws of the State which would authorize this deduction.

The only provision for his deducting 5 per cent as a commission is found in Sub-division 16, of Section 3272 of the Code, which provides for the deduction of such commission upon the payment of fines and forfeitures into the County Treasury.

The fixed rule of law is that statutes allowing this character of compensation and costs must be strictly construed, and no such compensation or cost can be allowed without express warrant of law.

I am, therefore, of the opinion, and so advise you, that the Clerk of a Circuit Court is not entitled to any commission on fines collected by him for violations of the Fish and Game Laws, which fines are payable into the State Treasury and not into the County Treasury.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY HEALTH OFFICER—SALARY OF.

April 15, 1912.

Dr. W. H. Sanders,
State Health Officer,
Capitol.

Dear Sir:—

Your letter of the 10th inst., requesting me to advise you as to whether or not the salary of a County Health Officer can be increased during his term of office received.

In reply I beg to advise you that I have examined Section 707 of the Code providing for the compensation of County Health Officers, and also the several sections providing for his appointment and prescribing his duties in connection with the provisions of Section 281 of the Constitution, which provides: "That the salary, fees or compensation of an officer shall not be increased nor diminished during his term of office," and have reached the conclusion that a County Health Officer is an *officer* within the meaning of that section of the Constitution.

I am, therefore, of the opinion, and so advise you, that the salary of a County Health Officer can not be either increased or diminished during his term of office.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY HEALTH OFFICER—QUALIFICATIONS.

April 15, 1912.

Dr. W. H. Sanders,
State Health Officer,
Capitol.

Dear Sir:—

Your letter referring to me the letter of Judge L. C. Hudgins, addressed to Hon. Cyrus B. Brown, Secretary of State, and requesting me to advise you thereon received.

The question propounded is, whether it is necessary that a County Health Officer appointed by the County Board of Health should be a qualified elector in order that he may hold the office of County Health Officer.

An examination of the statute creating the office of County Health Officer evinces no purpose on the part of the Legislature to restrict in any manner the County Boards of Health in their selection of their County Health Officer. He is selected for certain qualifications which are supposed to be personal to him because of his peculiar character of training and practice, and his selection is committed to a body similarly fitted by training and practice to make this selection.

I am, therefore, of the opinion, and so advise you, that it is not necessary that a County Health Officer be a qualified elector.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

TAX COMMISSIONERS—FEES OF.

April 15, 1912.

Hon. J. Lee Long,
Chairman State Tax Commission,
Capitol.

Dear Sir:—

Your favor of recent date in which you ask me to advise you as to whether or not the repeal by Section 10 of the Act approved March 31, 1911, entitled "An Act to further

provide for the revenues of the State of Alabama," of Section 2256 of the Code applies to Tax Commissioners who are in office prior to the time the Act above mentioned became of force and effect received.

The question thus presented is whether a County Tax Commissioner is such an officer that his fees fall under the protection of Section 281 of the Constitution.

In order that an officer may be protected in his fees, salary and compensation by Section 281 of the Constitution it is necessary that two things must concur: First, there must be an office; second, there must be a definite, fixed term to which the encumbent of the office is entitled.

The Supreme Court of Alabama in the case of Touart v. State ex rel, Calaghan, 56 South. Rep. 211, expressly decided that there was no such thing as a term of office for a County Tax Commissioner.

Therefore, the second requisite prescribed in Section 281 of the Constitution is wanting, and a County Tax Commissioner is not within the protection of that section as to his fees, salary or compensation.

I am, therefore, of the opinion, and so advise you, that no County Tax Commissioner is entitled to receive the fees prescribed by Section 2256 of the Code, but should receive, and is entitled to receive, the fees provided by Section 10 of the Act above referred to.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHERIFF—FEE BOOK OF.

March 23, 1912.

Hon. Frank V. Evans,
Examiner of Public Accounts,
Grove Hill, Ala.

Dear Sir:—

Your letter of the 21st inst., requesting me to advise you as to whether or not, although the Sheriff kept no fee book, if a fee book was kept by the Clerk in detail showing the fees prop

erly chargeable by the Sheriff, this would excuse him from keeping a fee book in compliance with the provisions of Sections 3704-3705 of the Code, received.

In reply, I beg to advise you that this matter has too often been passed upon by this office, and that it has uniformly been held that if the Sheriff did not keep a fee book he could not be allowed any credit for any charge which was not entered upon the fee book; that the provisions of Section 3705 of the Code are mandatory.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CLERK OF COURT OF APPEALS—FEES OF.

March 21, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Yours enclosing letter from Hon. Alex. Troy, Clerk of the Court of Appeals, and requesting me to advise you thereon, received.

The question upon which my advice is desired is whether the Clerk of the Court of Appeals is required to pay into the State Treasury fees for copying opinions when same are supplied to parties applying for them.

The provisions governing this subject are found in Sections 3719 and 5993 of the Code, in the amendment to Section 5993 of the Code by the Act of the Legislature approved November 23, 1907, and Section 16 of the Act approved March 9, 1911, entitled An Act "To establish a Court of Appeals for the State of Alabama, and to provide for the transfer of certain cases now pending in the Supreme Court to the Court of Appeals," Acts 1911, p. 95.

By Section 3718 of the Code it is provided that the Clerk of the Supreme Court shall receive fifteen cents for each one hundred words for copying opinions, records, or papers in his office, and by the provisions of the Act creating the Court of

Appeals the provisions of this Section are extended to the Clerk of the Court of Appeals. By the provisions of Section 5993 as amended, the Clerk of the Court is required quarterly to pay into the State Treasury all fees and costs collected by him as such Clerk.

These two instances are not the only instances in which the Code prescribes fees for copying by public officers, and in all instances where the officer does not receive his compensation from fees, the fees received by him for such copying are paid into the State Treasury under the provisions of law.

I am, therefore, of the opinion, and so advise you, that the Clerk of the Court of Appeals is without authority to furnish copies of opinions, records or papers in his office without charging therefor at the rate of fifteen cents per hundred words, and that all sums so charged and received by him must be by him accounted for and paid into the State Treasury quarterly.

I return you herewith the letter of Mr. Troy.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General

MORTGAGES—RECORD TAX UPON.

March 20, 1912.

Hon. C. B. Smith,
State Auditor.
Capitol.

Dear Sir:—

Replying to your favor of this date requesting to be advised as to whether or not a Judge of Probate shall accept for record in this State a mortgage which provides that the consideration and the indebtedness secured is one dollar and other valuable considerations, I beg to advise you that Sub-division 7 of Section 2082 of the Code of Alabama provides for a record tax upon all mortgages and like instruments offered for record, and further provides that this record tax shall be collected at the rate of fifteen cents on each one hundred dollars or portion thereof of the indebtedness secured.

The purpose of this tax is to give notice to all persons of the indebtedness and the lien against the property, and there is a further provision in the act which exempts from an ad valorem tax the instruments or the debts secured thereby, and it is the clear intent of this section of the Code that this record tax should be the tax in lieu of an ad valorem tax upon the indebtedness or upon the solvent credit, and I, therefore, advise you that before accepting a mortgage for record, the amount of the indebtedness should be stated thereon and the record tax paid at the rate provided within the above-mentioned section of the Code. Any other construction of this section would enable persons so desiring to avoid the payment of this tax by mentioning a nominal consideration or debt.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ADVERTISEMENT OF LIQUORS.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter requesting me to advise you as to whether or not the law forbidding the posting of advertisements of spirituous, vinous and malt liquors is still in force in this State, received.

In reply I beg to advise you that, in my opinion, this law is in force in all Counties in which the sale of such liquors has not been authorized by an election had under the provisions of the Acts of the last Legislature known as the Parks and Smith Bills.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

POWER OF STATE TAX COMMISSION TO SET ASIDE VALUATIONS ASSESSED BY THE BOARD OF REVENUE OR THE COMMISSIONERS' COURT.

March 20, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Yours enclosing correspondence of Hon. J. V. Allen, Tax Commissioner of Jefferson County, and requesting me to advise you thereon, received.

The question upon which you desire my advice is, whether or not, after an assessment of property has been proposed by the County Tax Commissioner of a County and the matter of the proposed assessment passed upon by the Court of County Commissioners or Board of Revenue of the County, has the State Tax Commission jurisdiction during that same year to set aside and hold for naught such assessment made by the Tax Commissioner, or the Board of Revenue or County Commissioners?

The provisions of law bearing upon this question are found in Sub-division 13 of Section 2223 of the Code, which is as follows:

> "To assess, or cause to be assessed by the proper officer, any property subject to taxation, and to set aside and hold for naught any valuation or assessment of property made by any County officer within this State or by any Board of Revenue or Court of County Commissioners, or by any other officers authorized to make assessments, and to reassess or revalue said property whether the original valuation or assessment be made by the property owner or by any officer of the State or of any County, or Board of Revenue, or Court of County Commissioners of the several Counties in this State, unless the valuation or assessment shall have been previously in the same tax year confirmed or determined by a Court of Record on Appeal; and the commission may value and assess any property, tangible or intangible, subject to taxation in this State, without regard to any previous assessment or valuation,

and may cause all its assessments, valuation, reassessments, or revaluation herein authorized, to be entered in the proper assessment books, or records or minutes of the several County officers, or of the appropriate boards or tribunals of this State authorized to assess property or to determine the question of assessments and taxation."

Also in Section 2228 of the Code, which is as follows:

"In every case where the State Tax Commission shall re-value or re-assess any property which has been previously valued or assessed for the same year by the County Tax Commissioner or the Board of Revenue or the Court of County Commissioners of the County in which the property is situated or subject to taxation, thirty days' notice shall first be given to the owner, or reputed owner, of the property before such assessment is entered of record on the assessment books or rolls, by personal notice left at his dwelling, or by registered mail, and such notice shall describe the property and the assessment or valuation fixed by the Commission and notify the owners to appear at a time specified therein before the Commission at the court house of the County in which the property is situated and show cause why the assessment or re-assessment should not be made."

In Section 2232 of the Code, which is as follows:

"When any assessment has been made or valuation fixed by the Tax Commission, or by the judgment of any Court of record, the property so assessed shall not be assessed at any less valuation, or for any less amount, for any succeeding year, if the property shall remain substantially in the same condition as to improvements, except by consent of the State Tax Commission."

In Section 2233 of the Code, which is as follows:

"The findings, judgments, assessments, valuations, and orders of the Tax Commission shall be conclusive upon every public officer in the State of Alabama who is now

or may hereafter be charged with the duty of assessing or collecting taxes, or enforcing the assessment or collection of the same, and upon every person, partnership, association, company, or corporation interested therein, and upon any property, privilege, or franchise of any person, partnership, association, company, or corporation, unless and until the findings, judgments, assessments, valuations or orders shall be corrected, reversed, altered, changed, set aside, or restrained by decree or judgment of a court of competent jurisdiction and power."

Section 2250 of the Code, which is as follows:

"Whenever the Tax Commissioner of any County shall find or it shall otherwise come to his knowledge that any person or property has been assessed at what he considers an undervaluation, he shall make an additional assessment against such person or property and return the same to the Court of County Commissioners, or other court of like jurisdiction, at the next succeeding term thereof, which court shall hear such Tax Commissioner upon such under-valuation, and unless they are fully satisfied that such under-valuation does not exist, they shall give notice, try, and dispose of assessment as in other cases of under-valuation; provided, that no taxpayer shall be required to have the valuation of his assessed property passed upon by the Board under proceedings by service of citation on him by the Board more than one time during the same tax year; where any taxpayer has had the valuation of any property fixed either by agreement with the Tax Commissioner or by trial before the Court of County Commissioners, or other court of like jurisdiction, or in the Circuit Court, in that event the valuation so fixed shall be the valuation of the property so valued for the succeeding tax year; provided, that the property remain substantially in the same condition as to improvements, unless otherwise ordered and directed by the State Board of Assessment."

And Section 36 d of the Act approved March 31, 1911, entitled an Act "To further provide for the revenues of the State of Alabama," Acts 1911, p. 159, which Section is as follows:

"When any assessment has been made or valuation fixed by the State Tax Commission or by a County Commissioner, or by the judgment of any court of record, the property so assessed shall not be assessed at any greater or less valuation or for any greater or less amount for the next succeeding year, unless there shall be a change in the condition of improvements on said property, in which event, the assessment may be increased or reduced to the extent only of the increase or reduction of the value of the improvements."

In construing these sections and determining the effect of Section 36 d of the Revenue Bill, it must be borne in mind that all these sections deal with the same subject matter and are a part of one system for the enforcement of the tax laws of this State, and they must be construed in pari materia and as one harmonious whole, and all conflicts must be avoided if possible.

Section 36 d does not in any manner purport to lessen the powers of the State Tax Commission over the assessment of property except in that it requires an assessment once made to remain for two years, but while the assessment is still in fieri—that is, while the amount of the assessment for the tax year has never been finally determined, the said Commission, upon giving the notice prescribed by Section 2228 of the Code, has the power conferred upon it by Sub-division 13 of Section 2223 of the Code, as fully as if Section 36 d of the recent Revenue bill had never been enacted.

Section 36 d must be construed as an amendment to Section 2232 of the Code and also as an amendment to Section 2250 of the Code, in that it places the action of the Tax Commissioner upon the same basis as that of the Tax Commission and the judgments of a court of record are placed by Section 2232 of the Code, and further provides against the increase as well as against the reduction of the amount of the assessment except for a change in the condition of improvements, and also takes away from the State Tax Commission the power, after the assessment has once been finally fixed, for any year, to interfere with that assessment for the period prescribed by Section 36 d. But under no stress of language can Section 36 d be made to in any wise interfere with the power con-

ferred upon the State Tax Commission by Sub-division 13 of Section 2223 of the Code when those powers are exercised during the same tax year.

I am, therefore, of the opinion, and so advise you, that neither County Tax Commissioners, nor Boards of Revenue or County Commissioners of a County, can, during the same tax year, take from the State Tax Commission its right to re-assess or re-value any property which it sees fit, provided the value of such property has not been during the preceding year fixed by the State Tax Commission, County Tax Commissioner, or the judgment of a court of record.

I return you herewith the papers enclosed.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CONVICTS—TESTIMONY OF IN CIVIL CASES.

March 16, 1912.

Hon. J. G. Oakley,
President State Board of Convict Inspectors,
Capitol.

Dear Sir:—

Yours of this date requesting me to advise you upon the matter of the habeas corpus ad testificandum issued by the Hon. J. J. Curtis, Judge of the 14th Judicial Circuit of the State of Alabama, commanding and requiring you, as President of the State Board of Convict Inspectors of the State of Alabama, to produce the body of one Neal Woods before the Circuit Court of Walker County, Alabama, at Jasper, at nine o'clock, A. M., on Monday the 18th day of March, 1912, received.

In reply I beg to advise you that, in my opinion, you are without authority to obey such writ, for the reason that by the provisions of Sections 6559 and 6560 of the Code of Alabama provision is made for procuring the testimony of convicts in both civil and criminal matters.

Section 6560 authorizes the judge of a Circuit Court or City Court to require you to produce any prisoner serving a

sentence in the penitentiary or to hard labor for the County before the Court on any specified day where his testimony is necessary in any criminal prosecution, but the provisions of Section 6560 are confined solely to procuring testimony in criminal cases.

The provisions of Section 6559 relate to the procuring of testimony in civil cases and confer upon you no authority to remove a convict from the penitentiary or from the place of his confinement to any other place in order that he may testify in a civil case.

I am, therefore, of the opinion, and so advise you, that you have no authority to remove the prisoner Neal Woods from his present place of confinement and carry him to Jasper in obedience to the writ of habeas corpus served upon you.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

TELEPHONE LINES—TAXATION OF.

March 15, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter referring to me the communication from Mr. Joe M. Webb, County Tax Commissioner of Cherokee County, in reference to the taxation of telephone lines owned by the Cherokee Fair Association, received.

From the communications enclosed it would appear that the Cherokee County Fair Association owns a telephone line of something from 100 to 150 miles in length, in Cherokee County, and that they claim that under the provisions of Section 13 of the Act approved March 31, 1911, entitled An Act "To further provide for the revenues of the State of Alabama," Acts 1911, p. 159, this property owned by them is exempt from taxation.

The provision of Section 13 so far as applicable is, "The following property shall be exempt from taxation: * * * *

all the property of State or County Fair Associations * * * * * * * * * *"

From an examination of the statute and a consideration of the purposes for which it was enacted, and what it was intended to accomplish—these being proper criterions by which to interpret a statute—I am clearly of the opinion that it was only intended to exempt property of a Fair Association used in connection with the conduct and operation of a fair, and not property which is used for other purposes, and from which it derives or could derive revenue in a way not connected with the conduct of a Fair.

I am, therefore, of the opinion, and so advise you, that the telephone line owned by the Cherokee County Fair Association is subject to taxation as provided by law.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PAYMENT OF ADDITIONAL COMPENSATION FOR EXAMINING TAX LISTS AND ASSESSMENT BOOKS ILLEGAL—COMPENSATION FOR COPYING IN THE REQUIRED BOOKS INSTRUMENTS INDEXED IN OTHER BOOKS LEGAL IF PROPERLY AUTHORIZED—PAYMENT FOR RELABELING PAPERS IN OFFICE OF JUDGE OF PROBATE, LEGAL.

March 14, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Ala.

Dear Sir:—

In reply to your favor of the 27th ultimo asking this department to advise you (1) if a charge against the County for examining tax lists and assessment books under the provisions of Sections 2147 and 2148 of the Code is a legal charge, (2) whether a charge of $634.12 against the County for copying or transferring to the required index books instruments theretofore indexed in several smaller books, is proper under the provisions of Section 5422 of the Code, and (3) if a County

can properly pay for re-arranging and relabelling papers in the Probate office, I have the honor to advise you as follows:

(1) Under Sections 2147 and 2148 of the Code it is made the duty of the court of County Commissioners to examine the book of assessments and all lists of assessments to determine whether or not they are prepared according to law. This duty being one imposed on the Court of County Commissioners, such Court is not only without authority to delegate its performance to another, but it must perform such duty without additional compensation.

(2) Section 5422 of the Code requires the Judge of Probate to keep two well-bound books in which are indexed by direct and reverse indexes the names of the makers of instruments and of those to whom the instruments are made.

Section 5424 of the Code provides that if it be necessary to preserve from damage or loss the contents of any books in the office of the Judge of Probate, the Court of County Commissioners may order the same recopied, and the Judge of Probate must recopy the same in good and substantial books, for which the Court must allow him a reasonable compensation. The determination of the necessity for such recopying is exclusively a matter for the Court of County Commissioners:—

Washington County v. Porter, 128 Ala. 278.

I am of the opinion, therefore, that such a charge, if properly authorized by the Court of County Commissioners, as this appears to be, is a legal charge against the County.

(3) I am unable to find authority for charging against the County an expense incurred in re-arranging and re-labeling the papers in the Probate office; such charge therefore, is an illegal one.

> "The true construction of our statutes, as ruled by this court, is, that for services rendered by ministerial officers, when the law fixes and defines the fees or commissions, the officer shall receive no other or greater compensation for the services thus enumerated, than the law declares. The Legislature, in its wisdom, has fixed the rate on an average scale; and while for some services he is required to render, his compensation may be inadequate, by reason of the particular circumstances attendant

on that service, in other words it will be found ample, if not bountiful, by reason of the light labor it imposes. The officer accepts the office with its benefits and burdens."

Kahn v. Locke, 75 Ala. 332.

"An officer demanding fees for services rendered must point to some clear and definite provision of the statute, which authorizes the demand, and the compensation cannot be allowed unless it is conferred by a strict construction of the language employed in the statute. Statutes giving costs or fees will not be extended beyond their letter * * * * * * 'Those who accept public offices, which require them to render services to the State, must take the office cum onere—the rendition of such services gratuitously, unless, by express statutory provision, compensation is fixed, and an express liability for its payment imposed.'—Pollard v. Brewer, 59 Ala. 130."

Torbert v. Hale County, 131 Ala. 143.

"No claims are chargeable on the County Treasury, nor can be paid therefrom, except such as the law imposes on the County, or empowers it to contract. No officer of the County can charge it with the payment of other claims, however meritorious the consideration, or whatever may be the benefit the County may derive and enjoy from them."

Jack v. Moore, 66 Ala. 187;

Naftel v. Montgomery Co., 127 Ala. 563.

Yours very truly,

WM. L. MARTIN,

Assistant Attorney General.

SIMILARITY OF NAMES OF CORPORATIONS.

March 6, 1912.

Hon. Cyrus B. Brown,
Secretary of State,
Capitol.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 6th inst., requesting to be advised whether or not under the law of

the State a corporation can be formed under the name of "Ala-Cola Bottling Company of Chattanooga, Tenn.," when it appears from your records that there is already a domestic corporation by the name of "Ala-Cola Syrup Manufacturing & Bottling Company, Inc."

I beg to advise you that under Sub-division 1 of Section 3446 of the Code of Alabama it is improper for any corporation to assume a name so nearly similar to another corporation as to lead to confusion or uncertainty. This provision clearly intends that there shall be no uncertainty in the minds of people generally as to the particular corporation with which they are dealing. It makes no difference that it shall not be objectionable to the other corporation involved; this provision of law intends to protect not only the corporation whose name is similar, but also it is for the protection of the general public, so that they may not be misled into believing that they are dealing with one corporation when in fact they are dealing with a corporation of a similar name.

I am, therefore, of the opinion that it would be objectionable for the corporation to use the name "Ala-Cola Bottling Company of Chattanooga, Tenn., for the reasons above stated.

Yours very truly,

T. H. SEAY,

Assistant Attorney General.

MARENGO COUNTY—BAILIFFS IN.

March 4, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Linden, Ala.

Dear Sir:—

In reply to your favor of the 1st instant asking the advice of this office regarding the manner of obtaining additional bailiffs for services in the law and equity court of Marengo County, asking if such additional bailiffs should be obtained by an order of the Court entered on the minutes, I have the honor to advise you that Section 15 of the act creating the Court (Acts 1909, p. 350) states that the Sheriff "shall furnish

all such other subordinate officers as may be necessary to expedite the business of said Court, the same as he is now required to do under the laws governing him as an officer of the Circuit and Chancery Courts of the State." As additional bailiffs are now obtained by entering an order on the minutes under the provisions of Section 3264 of the Code, the same procedure should be followed when they are required in the law and equity court.

Yours very truly,
WM. L. MARTIN,
Assistant Attorney General.

CLERK AND SHERIFF OF MARENGO COUNTY— EX-OFFICIO ALLOWANCES OF.

March 4, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Linden, Alabama.

Dear Sir:—

In reply to your favor of the 27th ultimo requesting the advice of this department regarding the legality of charges against the County in favor of the Sheriff and of the Clerk of the Circuit Court for additional ex-officio services performed in the Marengo Law and Equity Court, I have the honor to advise you as follows:

Under Section 6 of an act "To create and establish the Marengo Law and Equity Court for Marengo County," Acts 1909, p. 339, it is provided that the Clerk of the Circuit Court of Marengo County "shall be ex-officio Clerk of the Marengo Law and Equity Court * * * * and shall be entitled to the same fees for services in said court as he is entitled to for like services in the Circuit Court, as are now, or hereafter may be, allowed by law to the Clerk of said Circuit Court." Under Section 21 it is provided that "The fees of officers of the Marengo Law and Equity Court for services rendered * * * * * * shall be the same as are now, or hereafter may be, allowed for like services in Circuit and Chancery Courts of Marengo County."

For performing particular services Clerks of Circuit Courts are allowed the fees specified in Section 3713 of the Code. The compensation allowed Clerks for the performance of services for which no particular fee is specified, known as "ex-officio fees," is provided for by Sections 3715-17 of the Code.

It will be seen from the act creating the Law and Equity Court of Marengo County that the only provision for the compensation of the Clerk thereof is contained in the words, "he shall be entitled to the same fees for services in said Court as he is entitled to for like services in the Circuit Court." If therefore, the Clerk of the Law & Equity Court is confined to fees for like services rendered by the Clerk of the Circuit Court, and if an ex-officio allowance cannot be classed as a "fee," he cannot be permitted to draw such allowance. Though Sections 3715-17 of the Code provide for "ex-officio fees," such an allowance cannot be made a fee by so naming it.

> "What this word (fee) means has received in this State judicial construction * * * * * Compensation for these ex-officio services cannot, by any liberality of construction, be included in the word 'fees' * * * * * The statute itself provides that 'The law of fees and costs may be held to be penal, and no fee must be demanded or received except in cases expressly authorizd by law.' Code Section 3693. In practice, while costs and fees are different in their nature, the one being an allowance to a party for expenses incurred in prosecuting or defending a suit, the other, compensation to an officer for services rendered in the progress of a cause, they are placed for their allowance upon the same strictness of construction of the statute allowing them; and when any public officer demands a fee for services rendered, he must point to some clear and definite provision of the statute, which authorizes him to make the charge or demand.
>
> Troup v. Morgan County, 109 Ala. 162, 166.

Section 3722 of the Code specifies the fees allowed Sheriffs, including an ex-officio allowance not exceeding five hundred

dollars where the annual income of the office does not exceed seventy-five hundred dollars. I am of the opinion that the Sheriff, like the Clerk is restricted to those fees specified in the Code for the performance of particular services, that the reasoning herein set out regarding the Clerk's fees is applicable to those allowed the Sheriff, and that neither is entitled to additional compensation for ex-officio services performed in the Law and Equity Court of Marengo County.

Yours very truly,
WM. L. MARTIN,
Assistant Attorney General.

COMPENSATION OF PROBATE JUDGES FOR ROAD SERVICES—PAYMENT OF JUDGMENT BY COUNTY TREASURER.

March 4, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Linden, Alabama.

Dear Sir:—

In reply to your favor of the 27th ultimo asking the advice of this department (1) whether an increase of the compensation allowed a Judge of Probate for the performance of his duties relative to the public roads inures to the benefit of the incumbent in office during the term for which he was elected or appointed, and (2) whether the payment by the Treasurer of a judgment rendered against him in the Circuit Court is a proper charge against the County, I have the honor to advise you as follows.

Section 3720 of the Code fixes at a figure not exceeding ninety dollars per annum the compensation allowed a Probate Judge for the performance of his duties relative to the public roads. Section 281 of the Constitution forbids the increase or diminution of the salary, fees or compensation of any officer holding any civil office of profit during the term for which he shall have been elected or appointed. Section 68 of the Constitution permits an increase in an ex-officio allowance. In order, therefore, to benefit the incumbent during the term

of his office when the increase is made, the compensation for the performance of duties relative to the public roads would have to be regarded as ex-officio. The ex-officio allowance made Judges of Probate is for the performance of "all other official duties, for the compensation of which no express provision is made by law."

The performance of duties relative to the public roads being an official duty for the compensation of which an express provision is made by law, it is eliminated by the provision for the ex-officio allowance and the increase does not therefore inure to the benefit of the incumbent in office during the term for which he shall have been elected or appointed.

(2) A judgment being the highest form of a legal indebtedness, the County Treasurer properly paid that rendered against him in the Circuit Court in favor of one Taylor who had agreed to cancel his contract for the hire of County convicts conditioned upon the payment to him of five hundred dollars by the County.

Yours very truly,
WM. L. MARTIN,
Assistant Attorney General.

TAXATION—EXEMPTION FROM.

February 29, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 14th inst., enclosing a letter from the Tax Assessor of Macon County, Alabama, in which you ask to be advised upon the question raised by the Tax Assessor of Macon County in his letter to you.

You desire to be informed as to whom the exemption included within Sub-division 8 of Section 2061 of the Code of Alabama, applies. This exemption is in favor of all persons, and refers to household goods, crops, furniture, etc., and further provides that this exemption can be claimed only when

such property is entered by a taxpayer upon his assessment list and returned under oath to the Tax Assessor. I beg to advise you that this exemption applies where the taxpayer makes his assessment under oath to the Tax Assessor at the regular time appointed by the Tax Assessor, or where he returns a list of his taxable property under oath when notice is served on him by the Tax Assessor or his deputy. However, the taxpayer is not entitled to this exemption where he returns no sworn list of his property subject to taxation.

I return herewith the letter enclosed to me with reference to this matter.

Yours very truly,
T. H. SEAY,
Assistant Attorney General.

MONEY LENDERS—LICENSE OF.

February 29, 1912.

State Tax Commission,
Capitol.

Gentlemen:—

I beg to acknowledge receipt of yours of the 20th inst., enclosing a letter from Messrs. Inge & McCorvey, attorneys at law, requesting to be advised as to whether or not the license tax on money lenders imposed by the recent revenue bill can be collected from the same person where this prison has more than one established place of business in different Counties of the State.

The section of the Revenue Bill (Sec. 20) under which this tax is imposed, provides: "The payment of the tax in one County of the State as evidenced by the license or official certificate of the Probate Judge, shall be sufficient." From the wording of this section it is clear that it was the intent of the Legislature to impose this tax but once on any person, firm or corporation engaged in this kind of business, and I, therefore, advise you that where a person, firm or corporation engaged in the money-lending business as defined by this section of the Revenue Bill pays a license in one County in

the State, he is exempt from any further license tax under the section referred to.

Yours very truly,
T. H. SEAY,
Assistant Attorney Gereral.

COMMISSIONERS' COURT—CHANGE OF ASSESSMENTS BY.

February 29, 1912.

State Tax Commission,
Capitol.

Gentlemen:—

I beg to acknowledge receipt of your letter of the 26th inst., asking to be advised as to certain questions presented in a letter addressed to you from the Tax Commissioner of Dallas County. This question involves the right of the Court of County Commissioners to change or alter assessments made at the July term of the Commissioners' Court after the adjournment of their Court. In your letter you suggest that the matter might be settled by appeal to the Circuit Court from these changes, but as the appeal by the Tax Commissioner would be in the nature of an appeal by the State, I am of the opinion that under the recent decision of the Supreme Court the Tax Commissioner could not appeal to the Circuit Court. As the law now appears, only the taxpayer has the right of appeal. However, I am of the opinion that after the adjournment of the July term of the Commissioners' Court, the Commissioners are without authority to change the judgments rendered at this term, except for the purpose of correcting errors, and unless the change clearly appears to be in the nature of the correction of a mistake or error, I am of the opinion that the amount assessed at the July term of this court is final, and the Tax Commissioner's penalty attaches immediately and should be paid by the taxpayer in addition to the amount of taxes assessed, unless within the time allowed by law the taxpayer appeals to the Circuit Court for a revision of the judgment of the Court of County Commissioners.

Yours very truly,
T. H. SEAY,
Assistant Attorney General.

BREWERY AGENTS.

February 29, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 28th inst., enclosing a letter from the Chairman of the Mobile Excise Commission and requesting to be advised upon the question presented by this Commission.

The Commission desires to be advised as to whether or not, under a license tax issued to an agent of a brewing company, such agent could in connection with the agency of this brewery, sell an imported beer. Section 15 of the Smith Bill provides, among other things: "Each agency of a brewery of another State, doing business in this State, shall pay an annual license tax of fifteen hundred dollars, and any person, whether retail dealer or not, selling the goods or products of any brewery of another state, shall be deemed and held an agent thereof unless such brewery shall have an establishd agency in this State." From the reading of this Section it would seem clear that any foreign brewery doing business within this state must have an established agency and must pay the agency license of fifteen hundred dollars. In other words, any brewery desiring to sell its products within this State, must have an established agency within the State, and upon this agency is imposed a tax of fifteen hundred dollars.

I, therefore, advise you that unless the imported beer mentioned is the product of the same brewery for which an agency license has been issued, that no agent of such brewery would be authorized to sell an imported beer under the license issued to a foreign brewer. To hold otherwise would be to say that any number of brewers could, by paying one license in this State, sell their beer through one agent. I do not believe that such was intended by the Legislature or that such a construction could be placed upon the language contained in Section 12 of the act referred to.

Yours very truly,
T. H. SEAY,
Assistant Attorney General.

BROKERS—TAXATION OF.

February 23, 1912.

State Tax Commission,
Capitol.

Gentlemen:—

I beg to acknowledge receipt of your letter of the 20th inst., enclosing a communication addressed to you from Hon. J. V. Allen, Tax Commissioner of Jefferson County.

Your letter presents the question relating to the construction of Section 33-C of the Revenue Bill passed by the last general session of the Legislature. This section imposes a tax on commission merchants or dealers in merchandise other than produce dealers for commission, providing that the tax does not apply to corporations paying the tax required by Section 12 of the Revenue Bill.

The point is raised against this section that it is an attempt to tax interstate commerce where the commission merchant deals only with non-residents of the State of Alabama or represents, as such commission merchant or broker, non-residents of the State.

After a careful investigation of this matter, I beg to advise you that I am of the opinion that the Legislature is without authority to levy a tax on brokers or commission merchants who deal with non-residents of the State of Alabama; that such a tax would be in violation of the interstate commerce clause of the Federal Constitution; that is, in cases where the commission merchant did not act as a distributor of the goods, but merely solicits the order and the goods were shipped direct from parties without the State to the purchaser in this State. However, where the commission merchant or broker acts as a distributor and maintains a warehouse or other such place in connection with his business, and delivers the goods to parties in this State from such warehouse, I beg to advise you that the tax in that instance could be imposed under Section 33-C.

Stratford v. City of Montgomery, 110 Ala. 619;
Stockhard v. Morgan, 185 U. S. 37.

These cases hold that a tax on commission merchants or brokers doing business for non-residents is an imposition on

Interstate Commerce. However, it has been decided, as above pointed out, that the Interstate Commerce feature of such business ceases if the goods are delivered to the agent of the non-resident to this State and delivered from a warehouse by such agent.

City of Mobile v. Phillips, 146 Ala. 158;
Am. Steel & Wire Company v. Speed, 192 U. S., 520.

Following these decisions, I, therefore, beg to advise you that section 33-C of this act does not impose any tax upon parties doing business merely as a soliciting agent, broker or commission merchant for non-residents of the State of Alabama.

I herewith return the papers handed to me in reference to this matter.

Yours very truly,
T. H. SEAY,
Assistant Attorney General.

FEEDING OF PRISONERS ON COUNTY ROADS.

February 21, 1912.

Hon. Charles L. Townes,
Examiner of Public Accounts,
Gadsden, Ala.

Dear Sir:—

Your letter of the 17th inst., asking my advise upon the following matter, received:

"You will understand Etowah County works its convicts on the County road.

Large feed bills have been paid to Sheriff under these statements of facts and have been paid at the rate per day as charged by the Sheriff to the State for feeding prisoners. A prisoner would be sentenced on a certain day, after sentence he would be withdrawn from the State feed bill and then charged to the County until the Superintendent of the convicts on the road would call for him.

Sometimes it would be two weeks and sometimes longer, and the Sheriff would charge the County with the amount of the feed bill. In other instances where a case was on trial that a convict was a witness in, he would be brought to jail and would perhaps stay in jail from one to two weeks and the feed bill would be charged by the Sheriff against the County, in other instances convicts would be sick and would be brought to jail to stay for an indefinite time and their feed bill charged against the County and paid the Sheriff."

In reply, I beg to advise you that after a prisoner has been sentenced to hard labor for the County and the liability of the State for feeding him as a prisoner has ceased, that the matter of his feeding and care under these circumstances is a matter under the jurisdiction of the County, and that they have a right to pay for feeding him under the circumstances above set forth.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PRIMARIES—PAYMENT OF EXPENSES OF BY COUNTY.

February 21, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter submitting to me a letter from Hon. John S. Curtis, Judge of Probate of Winston County, and requesting me to advise you thereon, received.

The question submitted by Judge Curtis is, "Is the County liable to pay the expenses of a County primary under the last clause of Section 5, p. 423, General Acts Legislature 1911?"

The provisions of Section 5 are in substance that the expense of a primary should be paid out of the County Treasury of the County in which such primary is held, as are the

expenses of a general election held under the general election laws of the State, provided that the expense shall only be borne of such political parties whose candidates for Governor at the next preceding general election have received more than 25 per cent of all the votes cast for Governor at such election, in the entire State, and further providing that where the candidate of any political party for Probate Judge had received more than 25 per cent of the votes cast for all candidates for Probate Judge at such next preceding election for Probate Judge, that such political party might hold a County primary, the expense of which shall be paid in the same manner by the County. From this Section it will be clear that the County should properly pay the expenses of the County primary of the political party whose candidate for Probate Judge had received more than 25 per cent of the votes cast for Probate Judge at the next preceding general election.

The provisions of Section 53 of this act, however, would tend to throw some doubt upon this question, the provisions of this section being in substance that any primary election held by any party for any County, Precinct, District, etc., nomination shall be subject to the provisions of this act, except that the County should not pay the expenses of any such primary unless the same was a general primary election called by the State Executive Committee of the entire State.

These two sections must be construed in connection with each other, and in connection with the entire Act, and the matters with which it was intended the act should deal must be borne in mind.

The title of the Act is "To regulate primary elections in the State of Alabama," and it prescribes further and definitely the power and authority of the State Executive Committee over the primary elections to be held by the political party of which it is the central governing body, but it does not make it compulsory upon such State Executive Committee to call a primary for the nomination of the candidates of such party, leaving that matter in the discretion of the State Executive Committee, and viewing the bill as a whole, it is apparent that there would be no field of operation for the provisions of that portion of Section 5 in reference to the vote for Probate Judges in Counties, unless in a case where the Executive

Committee of the State had failed to call a primary, and that in that instance it was the legislative purpose and intent to allow County primaries to be held without the intervention of the State Committee in Counties where the candidates of the party holding the primary had received more than 25 per cent of the votes received for Probate Judge.

Construing this section in connection with Section 53 above quoted, it would seem that where the State Committee had acted and called a primary for the nomination of all candidates of the party throughout the entire State, that then the County would be only authorized to pay the expenses of a primary held in accordance with the direction of the State Executive Committee, but that in cases where the State Executive Committee had failed or refused to call such primary, then the County Committee might call such primary, the expenses of which would be a proper charge against the County, providing the candidate of such party had received the requisite number of votes specified in Section 5 of said act.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LICENSE TO SOCIAL CLUB DOES NOT PREVENT POOL TABLES IN CLUB.

February 20, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter of the 19th inst., enclosing a letter from Hon. J. E. Keenan, a member of the Tuscaloosa Excise Commission, and requesting me to advise you thereon, received.

Mr. Keenan desires to know whether a social club to which a license to sell liquors has been granted can have pool tables and other devices of amusement used in said club for the amusement of its members.

In reply, I beg to advise you that, in my opinion, the fact that a social club is granted a license under the provisions of the act known as the Smith Bill, does not destroy the right of the club to have pool tables and other characters of amusement such as are usual in social clubs.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LIQUORS—CANNOT BE PEDDLED FROM WAGON.

February 16, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

I beg to acknowledge receipt of your favor of the 14th inst., enclosing a letter from Hon. W. C. Agee, Chairman of the Jefferson County Excise Commission, in which you request to be advised upon the question contained in Mr. Agee's letter.

In response to this request, I beg to advise you that the laws of this State regulating the manufacture and sale of spirituous, vinous and malt liquors, clearly state that the license issued to any person, firm or corporation shall grant to such person, firm or corporation, the privilege of selling such spirituous, vinous or malt liquors only at the place mentioned in the license, and I beg to advise you that under this provision of the law it would be illegal for any person, firm or corporation to send around a wagon or wagons containing such liquors for sale, or in other words, it would be a violation of the law to peddle or attempt to peddle such liquors. Such a sale would be made from the wagon doing the peddling business, and not from the liquor house covered by the license.

However, I beg to advise you that it would not be a violation of the law to solicit orders for a later bona fide delivery from the place at which such business is legally carried on.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BALDWIN COUNTY—ASSESSOR'S FEES IN AND HARD LABOR AGENT FOR.

February 15, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Mobile, Alabama.

Dear Sir:—

I beg to acknowledge receipt of yours of the 4th inst., requesting to be advised (1) as to the authority of the County Board of Revenue of Baldwin County to employ hard labor agents, and (2) as to whether or not the Tax Assessor's fees under the local act of 1901 should be paid from the tax levied under the provisions of this act.

Replying to your first question, I beg to advise you that the act approved November 30, 1907, at the special session of the Legislature of 1907, provides for the hiring, management, etc., of County convicts, and within this act is found a provision authorizing the County Board of Revenuue or Court of County Commissioners to employ a suitable person to look after the County convicts when such convicts are worked upon the public roads or other public works of the county, or when the County convicts are hired within the County. See Section 7 and Section 19 of the above-mentioned act. These two sections are the only provisions that I am able to find which authorize the employment of a hard labor agent.

Replying to your second question, I beg to advise you that the Tax Assessor of Baldwin County is entitled to commissions under the provisions of the local act of 1901 referred to by you, and that such commissions should come out of the taxes raised under the provisions of this act.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CLERK CIRCUIT COURT, CRENSHAW—COMPENSATION OF —FINE AND FORFEITURE FUND—CLAIMS AGAINST.

February 6, 1912.

Hon. H. Y. Brooke,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter requesting me to advise you as to an allowance to the Clerk of the Circuit Court of Crenshaw County, as ex-officio Clerk of the County Court of said County, of commissions on Solicitor's fees paid into the County Treasury from the County Court, and also requesting me to advise you whether if the amount of the costs paid by the State upon conviction of a felony was not sufficient to pay the entire cost in the case; the remainder of the different cost was payable out of the Fine and Forfeiture Fund of the County, received.

In answer to your first question, I beg to advise you that after an examination of the Act of February 3, 1872, to which you refer together with Section 7798 of the Code, I am of the opinion that the Clerk of the Circuit Court, acting as Clerk of the County Court is entitled to the five per cent (5%) commission on fees of the Solicitor received by him as such Clerk and paid over to the County Treasurer.

Answering your second question, I beg to advise you that under Section 6573 of the Code, the amount of the costs to be paid by the State in any one case can not exceed $150.00, and further that the only claims that can be paid out of the Fine and Forfeiture Fund of the County are those specified in Section 6889 of the Code. The claims about which you inquire are not within the provision of Section 6889 of the Code.

I am, therefore, of the opinion, and so advise you, that they are not a proper charge against the Fine and Forfeiture Fund of the County.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CORPORATIONS—TAXATION OF.

February 5, 1912.

Hon. J. Lee Long,
Chairman State Tax Commission,
Capitol.

Dear Sir:—

Your letter requesting me to advise you as to the effect of Section 12 of the Act approved March 31, 1912, entitled An Act "To further provide for the revenues of the State of Alabama," Acts 1911, p. 159, upon Sub-division 26 of Section 2361 of the Code of 1907, received.

In reply, I beg to advise you that in my opinion Section 12 of the Act above referred to did repeal Sub-division 26 of Section 2361 of the Code.

You further request to be advised as to what should be done by your Commission with reference to corporations subject to such tax for the year 1911. In reply, I beg to advise you that Section 12 of the Act above referred to went into effect upon May 30, 1911. Corporations taxed under Sub-division 26 of Section 2361 of the Code were liable in January, 1911, for the tax provided by said Sub-division of said section; that in order to prevent double taxation and inequalities, the Board of Compromise made a general order in June, 1911, providing that such corporations as had paid their tax under Sub-division 26 of Section 2361 of the Code, being now liable for further taxation under Section 12 of the Act above referred to shall be required to pay only seven-twelfths of the tax required under Section 12 of said act, and shall be rebated thereon seven-twelfths of the tax already paid by them under Sub-division 26 of Section 2361 of the Code.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

LIQUOR LICENSE FOR CLUBS IN TOWNS OF LESS THAN 5,000 INHABITANTS.

Hon. Emmet O'Neal, February 5, 1912.
Governor,
Capitol.

Dear Sir:—

Yours of the 2nd inst., enclosing communication from Hon. John C. Spraggins, Chairman Excise Commission of Tuscumbia, and requesting me to advise you thereon, received.

From Mr. Spraggins' communication it appears that a Club has made application to the Tuscumbia Excise Commission for a license to sell liquors to its members, and that he desires to be advised whether such license can be granted in Tuscumbia, it being of less than five thousand inhabitants.

In reply, I beg to advise you that this matter is governed by the provisions of Section 11 of the Act approved April 6, 1911, Acts 1911, p. 249.

The provisions of Section 11, so far as applicable, are: "No license shall be issued to a corporation except a domestic corporation * * * * * or bona fide social club located within the police jurisdiction of the city or town, provided that the number of such social clubs to which such licenses may be issued shall not exceed one for every five thousand inhabitants of such town or city or fraction thereof, and in no case shall the total number of clubs in any city to which license may be issued, exceed fourteen."

I am, therefore, of the opinion, and so advise you, that the Excise Commission of Tuscumbia may grant a license to one social club, and no more in Tuscumbia.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

TELEPHONE LINES—TAXATION OF.

Hon. C. B. Smith, February 5, 1912.
State Auditor,
Capitol.

Dear Sir:—

Yours enclosing a letter from Mr. Hugh Reed, in reference to the tax upon telephone lines imposed by Section 1 of the

Act approved March 31, 1911, entitled An Act "To further provide for the revenues of the State of Alabama," Acts 1911, p. 159, and requesting me to advise you thereon, received.

From Mr. Reed's letter I gather the facts to be that a telephone company operates an exchange in Centre and also a line from Centre, to Gadsden, Alabama; that there are connected with the Centre exchange a number of phones which are owned by the individuals in whose houses or places of business they are, and that the lines connecting these phones with the exchange in Centre are in some instances owned entirely, and in some instances, partly, by the persons owning the phones; that the lines are not the property of the company operating the exchange and owning the lines from Centre to Gadsden.

Upon this state of facts, I beg to advise you that in my opinion the Company is only liable for the tax upon the lines from Centre to Gadsden, under the provisions of Section 1 of the Act above referred to.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

USE OF WORDS "BANK" OR "BANKING COMPANY."

February 3, 1912.

Hon. A. E. Walker,
Superintendent of Banks,
Montgomery, Ala.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 20th ult., requesting to be advised as to whether or not Article 10 of Chapter 69 of the Code could be construed so as to prohibit the use of the words "Bank" or "Banking Company" as part of a corporate title of a corporation in this State.

After an investigation of this Article, I am of the opinion that this article rerfers only to trust companies and cannot be construed to cover the words mentioned. The Code deals in separate articles with trust companies and banks, and nothing in the article dealing with banks and banking companies ex-

pressly prohibits the use of these words in corporate charters.

However, while your question does not raise the question, I beg to advise you that under the banking law of this State, a corporation could not engage in the banking business without first complying with the law regulating the incorporation and doing of business as a bank or banking company.

I return you herewith the papers handed me in reference to the matter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHELBY COUNTY—PURCHASE OF SUPPLIES IN.

February 1, 1912.

Hon. W. F. Wilkinson,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Yours of the 30th inst. submitting to me three questions, received.

Your first question is, "Under an Act creating the Board of Revenue of Shelby County, (Local Acts 1911, p. 154) has the Sheriff or any other County officer of said County, the right to make any kind of contract, or purchase any article that would bind the Board of Revenue to pay for same?"

Section 4 of the act above referred to provides: "The Board of Revenue shall have the power and authority * * * * and the sole right and authority to bind the county in any contract for the payment of money." Under this provision, it would seem clear that neither the Sheriff nor any other officer of said County has the right to make any contract which involves the payment of money out of the County Treasury, such power being vested by the County, solely in the Board of Revenue thereby created.

Your other questions are but supplementary to this question, as they are in reference to the mode in which the Board of Revenue may determine what goods or materials may be purchased at the expense of the County, and in what manner

the County officers may be furnished with the supplies which are by law authorized.

The Board cannot evade the responsibility which is fixed on it by the act, to make all these contracts and to purchase all these goods, materials and supplies, although it may adopt such method of requisition through its Clerk, or otherwise, as it may see fit and proper, to determine what contracts shall be entered into, what goods, materials and supplies shall be purchased, and from whom they shall be purchased.

Yours very truly,

R. C. BRICKELL,
Attorney General.

COUNTY TREASURER LIABLE FOR PAYMENT OF ILLEGAL WARRANTS—PAYMENT OF COUNTY PHYSICIANS IN INSANITY INVESTIGATIONS — PAYMENT OF SHERIFFS' HAND-CUFFS.

May 6, 1912.

Hon. H. Y. Brooke,
Examiner of Public Accounts,
Tuscumbia, Ala.

Dear Sir:—

Your letter of the 3rd inst., submitting to me certain questions received.

The first question is, "Where warrants have been drawn by the Court of County Commissioners and paid by the County Treasurer, and said warrants are not authorized by law, shall I charge said illegal payments to the County Treasurer." By the expression, "Said warrants are not authorized by law," I suppose you mean that the warrants were drawn in payment of expenditures not authorized by law.

It has uniformly been the ruling of this office that where a County Treasurer paid a warrant which showed upon its face that it was in payment of a liability for which the County could not lawfully be charged, that the Treasurer was liable, if he paid such warrants.

Your second question is answered by opinions to Hon. Frank B. Evans, Examiner of Public Accounts, copies of which are enclosed you.

Your third question is, "Is it lawful to pay physicians out of the County Treasury for making examinations as to the insanity of persons making application for admission to the Insane Asylum."

I can find no authority of law for such expenditure of the County funds.

Your fourth question is, "Is it lawful for the County to pay for hand-cuffs used by a Sheriff in the discharge of his official duties."

I can find no authority of law for such an expenditure.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SOLICITORS NO AUTHORITY TO INSTITUTE PROCEEDINGS TO CONDEMN MOULDED CORN.

May 6, 1912.

Hon. Reuben F. Kolb,
Commissioner of Agriculture and Industries,
State Capitol, Montgomery, Alabama.

Dear Sir:—

In response to your request for the advise of this department regarding the authority of the Solicitor of the City Court of Montgomery to institute a proceeding to libel and condemn a car of moulded corn, under the provisions of Section 7 of an act "To regulate sale of food and drugs in the State of Alabama, to provide for enforcement and inspectors and prescribe penalties for violation thereof," Acts 1909, page 237, I have the honor to advise you as follows:

It is well settled that under the police power of the state the Legislature has authority to enact laws protective of the public health, even to the extent of destroying what it deems injurious thereto.

N. & S. O. Ry. Co. v. Hunt, 50 N. J. L. 308;
Mugler v. Kansas, 123 U. S. 209;
Lawton v. Steele, 152 U. S. 133.

A process of condemnation being quasi-criminal in its nature, growing out of a violation of restrictions upon the use of private property, it must be authorized by a clearly expressed statute, and not left to inference or implication.

36 Cyc. 1178, Note 5 and citations.

Section 7 of the act in question, under which it is sought to institute proceedings herein, is as follows:

> "7. That any article of food, drug, or liquor that is adulterated or misbranded within the meaning of this act shall be liable to be proceeded against in any court of the State of Alabama, where practicable within the County where the same is found and seize for confiscation by a process of libel or condemnation. And if such article is condemned as being adulterated or misbranded or of a poisonous or deleterious character, within the meaning of this act, the same shall be disposed of by destruction or sale as the trial court may determine and direct, and the proceeds thereof, if sold, less the legal cost and charges, shall be paid into the Treasury of the State of Alabama, but such goods shall not be sold in any jurisdiction in this State contrary to the provisions of this act or the National Pure Food Law."

The ordinary meaning of the word *food* embraces articles of food or drink used by man.

Arbuckle v. Blackburn, 113 Fed. 616;
Boteler v. Washington, 3 Fed. Cas. 962 (No. 1685).

The statute, however, has defined the term as used therein to include all articles used for food by man or animals (Section 3). The corn sought to be condemned, therefore, would come properly under the provisions of the act referring to articles of food.

The question then arises, can a car of corn which has become moulded be classed as adulterated, under the meaning of Section 4 of the Act in question, and therefore, liable to condemnation?

Adulteration in its ordinary sense means the act of corrupting or debasing; of mixing something impure and spurious with something pure or genuine, or an inferior article with a superior one of the same kind.

Bouvier Law Dictionary;
Century Dictionary;
Grosvenor v. Duffy, 121 Mich. 220;
Commonwealth v. Hufnal, 185 Pa. 376.

The Federal Government, in enacting legislation with reference to wheat and other cereals, has gone no further than to authorize the Secretary of Agriculture to study in collaboration with certain other departments "the influence of environment upon the chemical composition of wheat and other cereals," and I am unable to find a Federal statute authorizing the seizure and condemnation of corn or other cereal for no other reason than that it has become moulded.

It follows, therefore, that moulded corn cannot be classed as adulterated food within the meaning of Section 4 of the Act in question.

The only other question for consideration is whether the owners of the corn can legally dispose of it.

Section 5 of the act in question sets out in detail the definition and application of *misbranded,* within the meaning of the law. The statute is not meant for the protection of the purchaser of open goods, he having the opportunity of investigating and informing himself of the quality of the thing purchased. It is meant for the protection of the purchaser of goods contained in sacks or packages, in the sale of which exists the seller's opportunity to deceive the purchaser by misbranding the thing sold. The moulded corn, therefore, would first have to be placed in sacks and packages before coming within the provisions of this section; then the only applicable Sub-divisions of Section 5 are, (2) if it be labeled or branded so as to deceive or mislead the purchaser, and (4) if the package shall bear any statement * * * regarding the substance contained therein, which statement * * * shall be false or misleading in any particular.

The question of the proper brand on a sack or package of moulded corn is one under which the provisions of Section 15

of the Food and Drug Act comes properly within the rules and regulations which your department is authorized to establish.

I am, therefore, of the opinion that moulded corn is not adulterated food under the provisions of Section 4; that it is not misbranded unless, being placed in sacks, it comes within the terms of Sub-divisions 2 and 4 of Section 5, as above quoted; and that the Solicitor of the City Court of Montgomery has no authority to proceed by process of libel and condemnation to confiscate moulded corn in bulk.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE HAS NO POWER TO DISPOSE OF TIMBER ON SALT LANDS.

May 6, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter of the 1st inst., requesting me to advise you as to whether, in my opinion, the State had power to dispose of the timber on the State Salt Lands, received.

These lands were granted to the State under the provisions of the second clause of the sixth clause of the Act of Congress approved March 2, 1819, this being the Act which provided for the admission of the State of Alabama into the Union. The language of that clause of the section is:

> "That all salt springs within the said territory, and the lands reserved for the use of the same, together with such other lands as may by the President of the United States be deemed necessary and proper for the working of said salt springs, not exceeding in the whole the quantity contained in thirty-six entire sections, shall be granted to the said state for the use of the people of the said State, the same to be used under such terms, conditions and regulations as the Legislature of said State shall direct; Pro-

vided, the said Legislature shall never sell nor lease the same for a longer term than ten years at any one time."

The only attempt by the Legislature to deal with the land so granted is found in Sections 883-887, inclusive, of the Code of 1907, and in neither of these sections does the Legislature attempt to grant the power to dispose of the timber on said lands.

Growing timber on land, while standing upon land, is legally regarded as a part of the land itself.

I am, therefore, of the opinion, and so advise you, that you have no power to sell any part or all of the timber upon these lands.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

INCORPORATION OF STEAMSHIP COMPANIES — MUST COMPLY WITH SECTION 3642 OF THE CODE.

May 14, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter of the 13th propounding the following question, "Are steamship companies incorporated under the laws of other States, required to comply with Section 3642 of the Code of 1907 before transacting business in this State?" received.

In reply, I beg to advise you that all companies, no matter what their character, organized under the laws of other States, will be required to comply with the provisions of this Section of the Code before they are authorized to transact business in this State.

Yours very truly,
R. C. BRICKELL,
Attorney General.

PREMIUM OF DOMESTIC INSURANCE COMPANIES—REVENUE BILL, 1911.

May 17, 1912.

Hon. Cyrus B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

Yours of this date requesting me to advise you whether or not you should require Insurance Companies organized under the laws of this State to pay a tax of one per cent on premium receipts as provided under Section 4 of the recent Revenue Bill, or a tax of two per cent under Section 2089 of the Code as amended by the Acts of the special session of 1909, received.

In reply, I beg to advise you that Section 4 of the recent Revenue Bill, being the last enactment of the Legislature upon the subject, you should be governed thereby.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

DETECTIVES' SERVICES IN PROHIBITION CASES—COUNTY NO AUTHORITY TO PAY.

May 17, 1912.

Hon. W. F. Wilkerson,
Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter of the 8th inst., making the following inquiry, "Has a County legal authority to pay out of its general fund money for services of detectives in getting up evidence and ferreting out crimes for violation of prohibition liquor laws?" received.

In reply, I beg to advise you that I can find no authority for any such expenditure of the County's funds.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

UNITED STATES ARMY OFFICER—MAY SERVE ALSO IN STATE MILITIA.

May 17, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter of the 15th inst., enclosing letter from Hon. J. B. Scully, Adjutant General, also letter from the Judge Advocate of the Eastern Division of the United States Army, requesting certain information, received.

The question upon which my advice is desired is whether a regular officer of the United States Army on the active list, can hold an office in the State militia of this State, or whether there are prohibitions and restrictions imposed by the State that make it impracticable for such regular officer of the United States Army to accept a position in the State militia, and also whether there have been any decisions upon this proposition either by the Courts of this State or by this office.

In reply, I beg to advise you that I find no record of any decision upon this proposition in this office; neither have I been able to find that the question has ever been presented to any Court of this State.

I do, however, find that officers of the regular army of the United States have accepted positions as commissioned officers of the Alabama State Troops, and that it was a custom during the time when the Alabama Troops were in the service of the United States during the period of the Spanish-American war, and immediately thereafter, for officers of the United States Army to serve as commissioned officers for the Alabama State Troops, and their right to do so was never questioned.

The only provision of our Constitution which disqualifies any person from holding two or more offices or an office of profit, both under the State and the United States, is Section 280 of the Constitution, which is as follows:

> "Section 280. No person holding an office of profit under the United States except a Postmaster whose annual salary does not exceed Two Hundred Dollars, shall during his continuance in such office, hold any office of profit under this State, nor, unless otherwise provided in this

Constitution, shall any person hold two offices of profit at one and the same time under this State except Justices of Peace, Constables, Notaries Public and Commissioners at Deeds."

This Section of the Constitution is a part of Article 17 of the Constitution which is the Article containing general, miscellaneous provisions. The next Section of the Constitution being a part of the same Article, Section 281 provides against changes in the compensation of any officer holding a civil office of profit. Neither of these sections form any part of Article 15 of the Constitution, which deals with the militia of the State, said Article comprising Sections 271 to 278, inclusive, of the Constitution.

Also in this connection, the provision of Section 280 of the Constitution are practically the same as the provisions of Section 1 of Article 16 of the Constitution of 1875, which was the Constitution in force at the time when officers of the United States did serve as officers of the State Troops.

Construing the provisions of our Constitution as a whole, and taking into consideration the precedents above referred to, I am of the opinion, and so advise you, that officers of the United States Army may serve as officers of the Alabama State Troops without violating any of the provisions of our Constitution or laws.

I return you herewith the communications enclosed.

Yours very truly,
R. C. BRICKELL,
Attorney General.

EXCISE COMMISSION—POWER TO REVOKE LICENSE OF WHOLESALER WHO AIDS IN VIOLATION OF LIQUOR LAW.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter submitting to me a letter from the Hon. E. Wilkinson, a member of the Jefferson County Excise Commission, asking for certain information, received.

The question submitted by Mr. Wilkinson is: "A is a regular licensed dealer and B is doing business without a license; A delivers goods to B and the case comes to our notice. Under the Smith Bill, are we authorized to revoke or suspend the license held by A?"

Section 20 of the Act of 1911 known as the Smith Bill provides that the Excise Commission, among other things, has power or authority to suspend or revoke any license issued by its authority, "Upon the Commission deciding that it has cause to believe that a licensee has violated some of the provisions hereof," the *hereof,* of course, referring to the Act known as the Smith Bill.

By Section 34 of the Smith Bill, it is provided "That any person who commits, or aids, or abets, assists or encourages another in committing any of the acts herein declared to be unlawful, shall be guilty of a misdemeanor.

It seems clear to me that any person holding a liquor license who furnishes liquors in any way to one whom he knows or has good cause to believe is engaged in the business of selling liquor without a license, would be aiding, abetting or assisting in the violation of the law by that person, and that this would be a good ground for the Commission to exercise the power of suspension or revocation granted them under Section 20 of the Act.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

TAX ON COTTON MILLS—TAX ON POWER COMPANIES.

May 22, 1912.

Hon. J. Lee Long,
Chairman State Tax Commission,
Capitol.

Dear Sir:—

Yours enclosing letter from Hon. C. D. Martin, Tax Commissioner of Calhoun County, and requesting me to advise you thereon, received.

The questions submitted by Mr. Martin are, First: "Are cotton mills and additions to cotton mills whose exemption

from taxation under Section 2066, Code 1907, expired February 13, 1912, liable for taxes of 1912?" and if so, should they be assessed as a raise or an escape?

Second: "Has a corporation or company under Sub-division 35, Section 2366, Code 1907, the right to operate a street railway; to sell power; operate an electric light plant and gas works under one license?"

Cotton mills were exempted under the general law first by acts of the Legislature which were carried forward into the Code and now form a part of the Code. The Legislature in its wisdom saw fit, for reasons sufficient to it and with which the executive department has nothing to do, to fix the 13th day of February, 1902, as the beginning of the period, and thereby fixed the 13th day of February, 1912, as a day of expiration of the period.

The Legislature has also fixed the period between the 1st day of October and the 1st day of February as a time within which each property owner must return his property for assessment, and has failed to make any provision for a pro rata assessment of property in the State between those dates.

Under the statute, cotton mills property exempted by Section 2066 of the Code was not assessable during the time it was the duty of the owner to have returned the property, therefore, it cannot be said to be escaped property, nor can it be properly classed as a raise in tax value.

I am, therefore, of the opinion, and so advise you, that such property will not become assessable for taxation until October 1st, 1912, the Legislature having made no provision for its assessment in the meantime.

Sub-division 35 of Section 2361 is not as clear and distinct as it might be made, but after a consideration of the language of the sub-division and each purpose, I am convinced that it was the legislative intent and purpose to impose a license tax upon the business of supplying electric light or power; upon the business of operating a street railway, and upon the business of operating a gas plant.

I am, therefore, of the opinion, and so advise you, that one company operating a street railway, selling electric lights and power, and operating a gas plant, should pay the license prescribed by Sub-division 35, Section 2361 of the Code, 1, As

a street railway, 2, As an electric light and power company. 3, As a gas plant.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

APPROPRIATIONS FOR PREMIUMS AT FAIRS NOT UNCONSTITUTIONAL.

May 25, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of this date calling my attention to the Act approved April 22, 1911, providing certain appropriations for premiums of Fairs (Acts 1911, p. 675) received.

You desire to be informed whether the appropriation made by this Act is one which required a two-thirds vote of the Legislature, under Section 73 of the Constitution, or one which is prohibited under Section 93 of the Constitution.

Section 73 of the Constitution prohibits an appropriation for charitable or educational institutions not under the absolute control of the State, except Normal Schools, except by a two-thirds vote of all the members elected to each House, and Section 93 of the Constitution prohibits the engaging by the State in works of internal improvement, or the lending of money or credit by the State for the aid of such improvement, or the State's becoming interested in or lending its money to any private or corporate enterprise or association.

The appropriation made by the Act is clearly not an appropriation to charitable or educational institutions within the meaning of Section 73 of the Constitution, nor is it offensive in any way to any of the provisions of Section 93 of the Constitution, because Fairs cannot be classed as works of internal improvement, nor can it be said that the appropriation made by the Act is the lending of money or credit by the State to the Fair, or the State's becoming interested in any financial way in the Fair, and a financial interest is the kind of interest which is prohibited by Section 93 of the Constitution.

The Act under consideration, when considered in the light of the legislative intent, is an appropriation in aid and encouragement of the object for which the Department of Agriculture and Industry was established.

I am, therefore, of the opinion, and so advise you, that the Act did not require a two-thirds vote under Section 73 of the Constitution, and is not offensive to Section 93 of the Constitution.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

MORTGAGE RECORD TAX—NOT DUE—PAYABLE ONLY ONCE ON SAME INDEBTEDNESS.

May 25, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter enclosing a letter from Hon. W. C. Christian, Probate Judge of Hale County, and requesting me to advise you thereon, received.

The question upon which Judge Christian desires advice is where a deed to a piece of property is presented for record, and a vendor's lien for the unpaid purchase price is reserved in the deed, and at the same time a mortgage from the vendee to the vendor conveying the same property as a security for the same indebtedness, is also presented for record, should the tax provided under Sub-division 7 of Section 2082 of the Code, as amended by Section 14 of the Revenue Act of 1911, be collected both upon the mortgage and the deed, or only upon one of them.

An examination of Section 14 of the Revenue Act providing that there shall be no tax upon mortgages, deeds of trust or similar instruments providing additional or substituted security for an indebtedness secured by an instrument previously filed, where the taxes have been paid upon such instrument, and the indebtedness remains unchanged in amount and time

of maturity, clearly shows that it was the legislative intent that not more than one instrument securing the same indebtedness both in amount and time should be taxed.

I am, therefore, of the opinion, and so advise you, that the payment of the tax upon the mortgage would satisfy the requirements of the law, and that the deed should be admitted to record without the payment of such tax.

I return herewith the letter of Judge Christian.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SUPERNUMERARY JUDGE—NO AUTHORITY TO HOLD COURT IN TENTH CIRCUIT WHILE BOTH CIRCUIT JUDGES ARE HOLDING COURT.

May 25, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Yours of the 24th inst., enclosing letter from Hon. John C. Pugh, Judge of the Tenth Judicial Circuit, and requesting me to advise you thereon, received.

The 10th Circuit has two Judges of the Circuit Court, and from Judge Pugh's letter it appears that both the Judges of this Court intend to attend Court and hold Court during the month of June, and he wishes to be advised whether the supernumerary Judge would also have authority to attend and hold a term of the Circuit Court at the same time that both the Judges of the Court were holding Court.

The office of supernumerary Judge is created by Section 3270 of the Code, and his authority to hold Circuit or Chancery Courts is conferred solely by that Section, and by that Section his authority to hold such Courts is limited to cases where "the Judges or Chancellors thereof fail to attend or to hold such terms."

It appears from the letter of Judge Pugh that both the Judges of the Court will be in attendance and holding a term of the Court.

I am, therefore, of the opinion, and so advise you, that under the circumstances indicated in Judge Pugh's letter, the supernumerary Judge would be without authority to attend and hold Court as desired.

I return you herewith the letter of Judge Pugh.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

TAX ASSESSORS' COMMISSIONS ON ASSESSMENT OF RAILROAD PROPERTY.

May 27, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter requesting me to advise you in the matter of the commissions of Tax Assessors on taxes assessed against railroad property, the assessments having been made by the State Board of Assessments, received.

I have formerly advised one of the Examiners of Public Accounts that a Tax Assessor was not entitled to commissions on these assessments, and were the question absolutely a new one, I would still adhere to that opinion, but in view of a practice which has prevailed in this State for a number of years, concurred in by the different departments of the State Government having charge of these matters, and especially by your department under the direction of your predecessors, to allow an Assessor these commissions, and in view of the further fact that the provisions of Section 2097 of the present Code do not differ in the particular now under consideration from the provisions of Section 3925 of the Code of 1896, I do not feel called upon to reverse the practice which has been maintained for so many years unless the Legislature, by some change in the law, should show affirmatively that it intended to work such a change.

I, therefore, advise you that Tax Assessors should be allowed commissions upon taxes assessed by the State Board of Assessment upon railroad property.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY'S AUTHORITY TO PAY FOR TYPEWRITERS.

Hon. Chas. E. McCall, May 29, 1912.
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

Yours requesting me to advise you whether a County can pay for a typewriter for use in the office of the Clerk of the Circuit Court, received.

I advised you some time since in reference to Probate Judges that the word stationery had such a meaning as typewriters would properly be included thereunder, and the Probate Judge was allowed a typewriter as a part of the stationery furnished him.

In order that this entire matter may be cleared up, I now advise you that a County has a right to furnish typewriters to all offices which are allowed stationery by law.

The Clerk of the Circuit Court is allowed stationery under Section 3278 of the Code, and therefore, may be allowed typewriters.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

APPROPRIATION FOR FAIRS—APPORTIONMENT TO BE APPROVED BY GOVERNOR.

Hon. C. B. Smith, May 29, 1912.
State Auditor,
Capitol.

Dear Sir:—

Your letter enclosing me request of Hon. Reuben F. Kolb, Commissioner of Agriculture and Industries for a warrant in

favor of the Alabama State Fair & Exhibit Association for $4,000.00, and requesting me to advise you thereon, received.

This appropriation is made by an Act of the Legislature approved April 22, 1911, to be found on p. 675 of the Acts of 1911. Section 1 of the Act makes the appropriation of $20,000.00; Section 2 of the Act directs how the money appropriated shall be alloted, and provides that this allotment must be made by the Commissioner of Agriculture & Industries, subject to the approval of the Governor. The Act, by Section 6, authorizes a warrant to be drawn on the certificate of the Commissioner of Agriculture & Industry when he is satisfied that the conditions of the Act has been fulfilled.

The certificate of the Commissioner of Agriculture & Industry which you submitted to me does not show that the apportionment has ever been approved by the Governor, nor is any copy of the approval by the Governor attached to the certificate of the Commisioner. I have, therefore, prepared, and send you herewith a form of certificate which occurs to me to be proper to be made by the Commissioner of Agriculture & Industries and upon receipt of which you will be authorized and required to draw your warrant upon the State Treasurer under the provisions of the Act above referred to.

Yours very truly,

ROBERT C. BRICKELL,
Attorney General.

PAYMENT OF REMOVAL BILLS IN CASES OF JUVENILE PRISONERS.

May 30, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter of the 27th inst., referring to me a certain account of Jno. P. Lister, as Sheriff of Etowah County, for the removal of four negro boys sentenced by the City Court of Gadsden to "The Alabama Reform School for Juvenile Negro Law Breakers," and requesting me to advise you thereon, received.

From the bill and the papers enclosed, it would appear that these four negro boys were under the age of fifteen years, and were properly committed by the Court to the institution at Mt. Meigs. The provision of the Act creating the institution which provides for the payment of the expenses of transporting boys committed thereto is found in Section 8 of the Act creating the institution, Acts 1911, page 677, and so far as material is, "The expense for transporting such boys, including expenses of one guard, shall be paid out of the State Treasury upon the sworn statement of the President of the School and approved by the Governor."

From an examination of the Act, it would appear that the expense of transportation is due by the State to the representative of the institution tarnsporting the. boys, and not to the Sheriff as such, but only in case he was acting for and on behalf of the institution.

This provision of the Act must be construed in connection with Section 3693 of the Code of 1907, which is as follows: "The law of fees and costs must be held to be penal, and no fee must be demanded or received except in cases expressly authorizd by law."

Troup v. Morgan County 109 Ala. 162;
Pollard v. Brewer, 59 Ala. 130;
Torbert v. Hale County, 131 Ala. 144.

Construing the provisions of Section 8 of the Act in connection with the provisions of Section 3693 of the Code, and the authority above cited, it is evident that the bill presented by Sheriff Lister cannot be paid to him as such, nor can the bill as presented by him, be paid at all because it is not approved by the President of the School as required by Section 8 of the Act.

I am of the opinion, and so advise you, that if the account is presented approved by the President of the School for the expenses of one person as guard, and the expenses of the four prisoners from Gadsden to Mt. Meigs, that the same should be paid, but that no per diem of any kind should be.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

RECORD MORTGAGE TAX—DUE ON MORTGAGE GIVEN TO SECURE BONDSMEN.

June 5, 1912.

Hon. Frank V. Evans,
Livingston, Alabama.
Dear Sir:—

I wish to acknowledge receipt of your letter of May 27th, requesting my opinion upon the question as to whether or not a mortgage is subject to a record tax when such mortgage is given to secure the mortgagee against liability upon a bond made by such mortgagee for the benefit of the mortgagor.

It is clear that the intent of the mortgage is to secure the bondsmen or mortgagee from loss, and I am of the opinion that this is in the nature of security for a debt, and that the amount of the debt secured by the mortgage is to be determined by the amount of the penalty named in the bond.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PAYMENT FOR DRUGS FURNISHED TO PRISONERS.

June 17, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.
Dear Sir:—

Yours inclosing letters from the President of the Commissioners Court of Calhoun County and Probate Judge of Etowah County, and requesting me to advise you thereon, received. The information which these gentlemen seek is in reference to the payment of bill for drugs for prisoners in the Etowah County jail, which have been transferred over to the Calhoun jail for safekeeping.

Under provision of the Act of 1911, page 356, entitled an Act "To provide for the creation of the office of State Prison Inspector and for other purposes, the full title of which it is not necessary to set out, approved April 8, 1911, it is pro-

vided in Section 14 that the State Prison Inspector may order the removal by the Sheriff of one County of prisoners under his control to another county, "the expense of the removal of the prisoners and the poor, and the maintenance of removed prisoners and paupers is to be borne by the County, town or City from which said prisoners or paupers are removed (except the feeding of State and County prisoners)."

The furnishing of drugs to such prisoners is certainly a part of their maintenance, and should, therefore, be borne by the County from which they were removed—in this instance, by Calhoun County.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

AUDITOR OF WALKER COUNTY—NOT ENTITLED TO EXTRA COMPENSATION.

June 27, 1912.

Hon. J. T. Gorman,
Jasper, Alabama.

Dear Sir:—

In reply to your favor of the 25th inst., asking this department to advise you whether or not the Auditor of Walker County is entitled to one hundred dollars, in addition to his regular compensation, for making his annual report to the Court of County Commissioners, I have the honor to advise you that Setcion 3 of an Act creating the office of County Auditor, Acts 1907, p. 143, fixes at one thousand dollars per annum the compensation of such Auditor. Section 11 of the Act prescribes one of the duties, for the performance of all of which the compensation of one thousand dollars is fixed.

The Court of County Commissioners has, therefore, no authority to allow additional compensation.

Yours very truly,
WM. L. MARTIN,
Assistant Attorney General.

FEE OF PROBATE JUDGE FOR ROAD DUTIES.

June 27, 1912.

Hon. J. T. Gorman,
Jasper, Alabama.
Dear Sir:—

In reply to your favor of the 13th inst., asking this department to advise you whether or not the Judge of Probate of Walker County is entitled to additional compensation for recording the reports and statements of the Supervisors of Public Roads under the provisions of Section 10 of an Act providing for the establishing, working and maintaining of public roads, Local Acts, 1907, p. 701, I have the honor to advise you that if the reports and statements of the Supervisors became part of the minutes of the Commissioner's Court, the Judge of Probate would be entitled to 15 cents per hundred words for keeping such minutes. I am, however, unable to definitely answer your question in its present form, and shall thank you for additional information regarding the reason for, and the circumstances under which this additional compensation was paid.

Yours very truly,
WM. L. MARTIN,
Assistant Attorney General.

LIGHTING AND WATER COMPANIES TO PAY LICENSE TAX FOR BOTH BUSINESSES.

June 27, 1912.

Hon. J. T. Gorman,
Jasper, Alabama.
Dear Sir:—

In reply to your favor of the 18th inst., asking this department to advise you whether or not a corporation which furnishes both light and water to a municipality is liable for a license tax for furnishing each under the provisions of Subdivision 35, Section 2361 of the Code, I have the honor to advise you that such company is so liable. The license is required for the operation of "Each electric light or power com-

pany, street railway company, water works company or corporation, gas company or corporation." It is the business sought to be licensed, not the person or corporation operating it. One corporation might conduct every business set out in Sub-division 35, and while it would be required to pay only one franchise tax, under the provisions of Section 12 of an Act "To better provide for the revenues of the State of Alabama, "Acts 1911, p. 159, it would be required to pay a license for every such business conducted.

Yours very truly,
WM. L. MARTIN,
Assistant Attorney General.

FAIR ASSOCIATIONS LIABLE FOR FRANCHISE TAX.

June 27, 1912.

Hon. J. T. Gorman,
Jasper, Alabama.

Dear Sir:—

In reply to your favor of the 25th ult., asking this department to advise you whether or not fair associations, organized as corporations, are liable for the franchise tax exacted by Section 12 of an Act "To better provide for the revenues of the State of Alabama," Acts 1911, p. 159, I have the honor to advise you that under Section 13, p. 172, of the Act in question, the property of agricultural associations of a public character is exempt, and such associations are relieved from paying State, County and municipal taxes on privileges "granted or sold by them and conducted on their grounds during the exhibition of such fairs"; Code, Section 72, but I am unable to find an exemption from paying the franchise tax exacted under Section 12 of the Revenue Bill of "all corporations organized under the laws of this State." I have no doubt that had the legislative attention been called to the fact that such associations, public in their nature, would be required to pay such tax, the law-making body which had granted exemptions from all other taxes, would have immediately relieved such associations from the payment of franchise taxes. But, however muchly desired such exemptions may be, there is no

specific provision therefor, and "liability to taxaton is the rule—exemption the exception, to be proved by him who asserts it."—Swann & Billups v. the State, 77 Ala. 545, 547, and cases cited.

I have the honor to advise you, therefore, that fair associations, organized as corporations, are liable for the franchise tax exacted by Section 12 of the Revenue Bill.

Yours very truly,
WM. L. MARTIN,
Assistant Attorney General.

TAX ASSESSORS—LAND BOOKS—COMPENSATION FOR.

June 29, 1912.

Hon. J. T. Gorman,
Jasper, Alabama.

Dear Sir:—

In reply to your favor of the 16th inst., asking this office to advise you whether or not the Tax Assessor of Walker County is entitled to two hundred dollars for making a land book under the provisions of a local law, Acts 1903, p. 394, and two hundred and fifty dollars under the provisions of Section 7 of an Act "To better provide for the revenues of the State of Alabama," Acts 1911, p. 159, I have the honor to advise you as follows:

Under the Act of 1903, supra, the compensation is fixed at two hundred dollars for making the land book, and at the same amount for making the plat book. This local law was enacted in a case provided for by the general law in effect at that time (Code 1896, Section 3963) and was, therefore, in violation of Section 105 of the Constitution.

Section 7 of the Revenue Bill of 1911 fixes the compensation of the Tax Assessor for services performed in making the plat and land books. Section 37 of the same Act provides that all laws in conflict therewith are expressly repealed. While the rule is that a general act does not repeal a local or a special act, yet if it shall appear that the general act was "intended to prescribe the only rule which should govern the subject," it would prevail, and local and special acts in conflict therewith would be repealed.

Ogburne v. Ogburne, admr., 60 Ala. 620;
State v. Spurlock, 159 Ala. 122.

It appears that the Revenue Bill of 1911 was intended to prescribe the only rule with reference both to the compilation of plat and land books and to the Assessors' compensation therefor, and I am of the opinion that the Assessor is entitled only to the compensation provided by Section 7 of the Revenue Bill.

Yours very truly,
WM. L. MARTIN,
Assistant Attorney General.

DISTRICT SCHOOL TRUSTEE MUST BE ELECTOR.

July 3, 1912.

Hon. H. J. Willingham,
Superintendent of Education,
Capitol.

Dear Sir:—

Your letter of this date requesting me to advise you whether a District School Trustee must be a qualified elector, received.

In this letter you call my attention to an opinion given by former Attorney General Garber to former Superintendent of Education Gunnells on the 16th of May, 1907.

He holds that a citizen who is not a qualified elector is ineligible to fill the office of County Superintendent of Education, and in fact that he is ineligible to fill any elective office.

After considering the opinion above referred to, I am in full accord therewith.

Section 1697 of the Code of 1907 provides for the office of District Trustee, provides for the manner of the election of this officer and designates the District Trustee as an officer.

I am, therefore, of the opinion, and so advise you, that a District Trustee must be a qualified elector of the School District for which he is elected a Trustee.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

GAME WARDENS NOT AUTHORIZED TO CARRY PISTOLS.

July 5, 1912.

Hon. John H. Wallace, Jr.,
State Game and Fish Commissioner,
Capitol.

Dear Sir:—

Your letter of the 3d inst., requesting me to advise you whether game wardens in the discharge of their duties are permitted to carry pistols concealed about their persons, received.

In reply, I beg to advise you that under the provisions of an act approved August 26, 1909, entitled an Act "To regulate the right to carry a pistol in this State," the exceptions made by the Act are Sheriffs, and Deputy Sheriffs, Police officers of incorporated towns, United States Marshals and their deputies and rural free mail carriers. There are no other exceptions stated in the act. The office of Game Warden having been created before the passage of the act, and not being included in the exceptions mentioned in the Act, it necessarily proves that it was the purpose of the Legislature not to exempt them from the provisions of the act.

I am, therefore, of the opinion, and so advise you, that a Game Warden is not entitled to carry a pistol concealed about his person, although at the time, in the discharge of his official duties.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

MOBILE COUNTY HIGH SCHOOL—AUTHORITY FOR.

July 5, 1912.

Hon. H. J. Willingham,
Superintendent of Education.
Capitol.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 27th ult., enclosing letter from Superintendent Murphy of Mobile Coun-

ty, and submitting the question as to whether or not under the Act of August 7, 1907, and the Act of April 8, 1911, there could be established in Mobile County a County High School.

Replying to this question, I beg to state that it has been the policy of the Legislature for many years to keep the public school system of Mobile County entirely separate and apart from the other school systems of the State, and the Constitution of 1901 expressly provides that none of the provisions of the article in the Constitution upon education, or any legislation passed in pursuance of such article, shall apply to Mobile County except to authorize the proper officer to draw the funds to which such County is entitled, and to make reports to the Superintendent of Education.

The acts of the Legislature above mentioned, authorizing County High Schools and making appropriations therefor, were passed in pursuance of and in accordance with the article of the Constitution upon the subject of education, Section 256 et sec, and can clearly have no application to Mobile County.

The Supreme Court of Alabama has heretofore decided that the Legislature having authorized a separate school system for Mobile County, no general act of the Legislature which would in effect repeal this separate school system, shall be applicable to Mobile County to such an extent as to repeal or impair the legislative acts under which the school system of Mobile County is operated.

Horton v. School Commissioners, 43 Ala. 598.

Therefore, basing my opinion upon Section 270 of the Constitution, and upon the decision of the Supreme Court just above cited, I beg to advise you that the general law of the State authorizing County High Schools can have no application to Mobile County.

Yours very truly,

ROBERT C. BRICKELL,

Attorney General.

PROBATE JUDGE—AUTHORITY TO HOLD LICENSE MONEY BEYOND DAY FOR REMITTING.

State Tax Commission, July 5, 1912.
Capitol.

Gentlemen:—

On the 31st ult. you requested my opinion upon the authority of a Probate Judge to hold license money collected by him under the provisions of Section 33½ of the last Revenue Bill, pending a decision of the validity of this Section by the Supreme Court.

Replying to your question, I beg to advise you that there is no authority of law for the Probate Judge to hold such license money beyond the day of reporting same, unless suit for the recovery of this money has been filed against him. I also wish to advise you that it is the duty of the Probate Judge to collect this license tax pending the decision of this question.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY TREASURER AUTHORITY TO PAY CLAIMS AGAINST THE COUNTY.

July 6, 1912.

Hon. Chas. E. McCall,
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter referring to me a letter of Mr. Victor R. White, County Treasurer of Marion County, Ala., in reference to the allowance by the Commissioners' Court of claims against the County at the June or July terms, received.

In reply, I beg to advise you that in my opinion, whenever the Commissioners' Court is regularly convened, it may pass upon and allow claims against the County, and the Treasurer is authorized to pay such claims as are allowed by them, which are authorized by law.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY APPROPRIATION FOR FAIR ILLEGAL—PRIOR TO ACT OF 1911.

July 6, 1912.

J. T. Gorman, Esq.,
Care Reed's Studio,
Mobile, Alabama.

Dear Sir:—

Replying to your favor of the 1st inst., stating that the Court of County Commissioners made an appropriation of $300 for a County fair held in 1910, and asking if such appropriation is authorized by the provisions of an act authorizing the Court of County Commissioners to appropriate funds for aiding in the work of farm demonstration, etc., (Acts 1911, page 35,) I beg to advise you that the Court of County Commissioners has authority to appropriate not exceeding $1,000 a year for the promotion of farm demonstration, but such authority is given the Court of County Commissioners to make such appropriation only after the approval on February 28, 1911, of the act in question. An appropriation, therefore, for a County fair held in 1910 and before the approval of the act is unauthorized.

Yours very truly,
WM. L. MARTIN,
Assistant Attorney General.

COUNTIES' AUTHORITY TO EMPLOY HIGHWAY ENGINEER

July 8, 1912.

Hon. W. S. Keller,
State Highway Engineer,
Capitol.

Dear Sir:—

Your letter, requesting me to advise you as to the authority of the County, under chapter 135 of the Code, to employ a highway engineer to supervise road construction and make surveys of roads in a County, and to fix his compensation, received.

Section 5823, to which you direct my attention, limits the authority of the Court of County Commissioners to pay a

salary to road supervisors. His duties are prescribed by Section 5824, and the duties so prescribed are such, as indicated by your letter, the highway engineer would be expected to perform.

Section 5765 of the Code in prescribing the power and authority of the Court of County Commissioners with reference to the public roads, uses broad terms, conferring upon them legislative, judicial and executive powers, but it limits their exercise of these powers by the express provision that they may not establish, promulgate or enforce rules, regulations or laws inconsistent with the general laws of the State. It, therefore, seems to me that to create an office of highway engineer, and to confer upon him the powers conferred by Section 5824 upon the road supervisor, and to pay him a salary in excess of that fixed by Section 5823, would be beyond the power of the Commissioners' Court, as it would be an act inconsistent with the general laws of the State. The purpose of conferring upon the Court of County Commissioners legislative, executive and judicial power in reference to the roads is to extend their authority so that they may deal with matters not governed by the general law, but it clearly does not give them power to deal with any matter governed by the general law, in any way inconsistent with the provisions of the general laws of the State.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PROBATE JUDGE—FEES FOR RECORDING PROCEEDINGS OF COMMISSIONERS' COURT.

July 8, 1912.

Hon. H. Y. Brooke,
Examiner of Public Accounts,
Geneva, Alabama.

Dear Sir:—

Your letter requesting me to advise you upon the following propositions, to-wit:

> "Section 2148 provides the method by which the Court of County Commissioners settle questions concerning

tax matters, namely by docketing and trying the cases. These proceedings are part of the minutes of the Court. Are not Probate Judges under Section 3720 entitled to 15 cents per hundred words for this service?" received.

The provision of Section 3720, so far as pertinent, is "recording the proceedings of the Commissioner's Court, for each hundred words, 15 cents."

Under Section 2148, when objection is made to an assessment, a case must be stated on a docket in the name of the State of Alabama, as plaintiff, against the tax payer, as defendant, with a note of the objection set opposite the statement of the case. After hearing the case, a decision of the Court must be entered on the docket and signed by the presiding officer of the Court. This, in my opinion, does not constitute such a record as Probate Judges are allowed 15 cents per hundred words for recording, under the provisions of Section 3780. In fact, it does not appear that he has any duty cast upon him by this statute. The duty which falls upon him by the statute is that of Presiding Judge to make an entry upon the docket. These are not the proceedings which it is necessary for him to record.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

OFFICER LIABLE FOR MONEY PLACED IN BANK WHEN BANK FAILS—TAX COMMISSION—NO AUTHORITY TO CHANGE ASSESSMENTS—PROBATE JUDGE—FEE FOR DECREES IN COMMISSIONERS' COURT.

July 8, 1912.

Hon. H. Y. Brooke,
Examiner of Public Accounts,
Geneva, Alabama.

Dear Sir:—

Your letter, requesting me to advise you upon three propositions therein stated, received.

One of said propositions is, "Where an officer deposits money in a bank that has failed and said officer having failed

to exact a bond as required by the penal statutes (said deposit being made in his official capacity), is not the county entitled to recover its funds before other depositors are paid, the transaction being an illegal one?"

In reply, I beg to advise you that an officer depositing money in the bank and his bondsmen are, in such instances, liable to the County as if no deposit had been made, and the question which you present is one which would properly be presented upon an application of the officer to be allowed to subrogate to the rights of the County, if any, and is not one which would properly present itself before you as an examiner. Your duty would be to charge this officer with the money and his official bond would be liable therefor.

Another question which you present is, "Where the Court of County Commissioners has raised the value of a taxpayer's property, and through error attempts to add the Tax Commissioner's fees to said raises, and in so doing add 10 per cent additional to the value of the property, is the tax payer entitled to an allowance by the Tax Collector when he collects the taxes. The distinction in this case is that the 10 per cent was added to the value of the raise and not to the taxes."

In reply, I beg to advise you that the Tax Collector must be governed by the amount of the assessment as turned over to him and that he has no right or authority to correct this error, if it be an error, and that he must make a collection upon the assessment as delivered to him.

The other question which you propound is, "Where the Judge of Probate, acting as Clerk of the Court of County Commissioners, signs the decrees of said Court in tax-raise cases, is he entitled to 25 cents for each decree so signed, and is said 25 cents a proper charge against the funds of the County?"

In reply, I beg to advise you that it has been the uniform ruling of this office, not only during its present incumbency, but also by former incumbents, that the Probate Judge is not entitled to this fee of 25 cents as a charge against the County.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

JANITOR SERVICE—AUTHORITY OF COUNTY TO PAY FOR.

July 10, 1912.

Hon. J. T. Gorman,
Mobile, Alabama.
Dear Sir:—

In reply to your inquiry as to whether or not the County is authorized to pay $75.00 per month for janitor services at the court house and jail of Walker County, I beg to advise you that under Sections 18 and 30 of an act providing for the office of State Prison Inspector, Acts 1911, p. 362, the County is authorized to provide adequate janitor service for the county jail, and the expense of such service is a legal charge against the County (Section 30, p. 365).

Yours very truly,
WM. L. MARTIN,
Assistant Attorney General.

CIRCUIT CLERKS—EX-OFFICIO CLERKS OF THE COUNTY —ENTITLED ONLY TO ALLOWANCE FOR EX-OFFICIO FEES.

July 23, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Eutaw, Alabama.
Dear Sir:—

On July 10th you were advised by this department that the Clerk of the Law and Equity Court of Walker County was not entitled, as such, to an ex-officio allowance. On July 17th you were further advised by the Assistant Attorney General that under an act of the special session of 1907 (p. 201), making applicable to Clerks of Courts having concurrent jurisdiction with Circuit Courts the provisions of an act fixing the ex-officio allowance of clerks of the latter Courts (Gen. Acts 1907, p. 583), the Clerk of a Law and Equity Court, having such jurisdiction, was entitled to such allowance. As the Clerk of the Law and Equity Court of Walker County holds that office through his tenure of the

office of Clerk of the Circuit Court, it cannot be said that these are two separate and distinct offices; the Clerk of the former performs his duties as such under and by authority of his being Clerk of the Circuit Court, and therefore, "ex-officio Clerk of the Walker County Law and Equity Court." Acts 1900, p. 109.

The provisions of the act of 1907, special session, p. 201, is meant to apply to the Clerk of a Court having concurrent jurisdiction with the Circuit Court when such Clerk holds an office which is separate and distinct in itself The holding of two offices is forbidden by the Constitution.—Section 280.

I beg to advise you, therefore, that the Clerk of the Circuit Court, being ex-officio Clerk of the Law & Equity Court of Walker County, is entitled to only one ex-officio allowance as fixed by the act regulating such allowances.—Acts 1907, p. 583.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PROBATE JUDGE—CANNOT CHARGE COUNTY FOR TREASURER'S REPORT.

July 24, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Eutaw, Alabama.

Dear Sir:—

Your letter asking me to advise you upon the following question: "Can the Probate Judge charge the County for making copies of the Treasurer's reports to post up at the court house door and to furnish the papers to print?" received.

In reply, I beg to advise you that I am unable to find authority for any such charge.

The other questions asked in your letter in reference to the claims against the Fine and Forfeiture Fund of the County which you say you enclose, but do not enclose, are not stated in such a way that I can intelligently answer them.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PROBATE JUDGE—AUTHORITY TO RECOPY RECORDS IN OFFICE—COMPENSATION FOR.

July 24, 1912.

Hon. C. E. McCall,
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter of the 23rd inst., submitting to me a letter from Hon. S. J. Petrie, Judge of Probate of Franklin County, and requesting me to advise you thereon, received.

From the letter of Judge Petrie, I gather that the Court of County Commissioners, under authority conferred upon them by Section 5424 of the Code, have determined that it is necessary that the books containing the indexes to the record in Franklin County be recopied, and have made an order on the minutes of the Court to that effect, and that he, as Probate Judge, has employed some one to do this work, and that a warrant has been drawn on the County Treasurer, payable to the person employed by the Probate Judge, and that the question upon which advice is desired is, "Could this warrant properly be made payable to the person employed by the Probate Judge?"

In reply, I beg to advise you that under Section 5424, the work must be done by the Probate Judge, or by some one under his direction and for whose work he is responsible, and that compensation cannot be allowed to any one but the Probate Judge, the amount of the compensation resting in the discretion of the Court of County Commissioners.

If the Probate Judge sees fit to employ anyone to do this work, the person so employed must be paid by the Probate Judge, and cannot be paid by the County, although the County may pay the Probate Judge.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CALHOUN COUNTY FINE AND FORFEITURE FUND—CONTROL OF.

July 28, 1912.

Hon. Chas. E. McCall,
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

I have your letter of the 24th inst., enclosing letter from A. H. Glasgow, Judge of Probate of Cleburne County, and requesting me to advise you thereon.

It appears from the letter of Judge Glasgow that there is a special act for Cleburne County covering the Fine and Forfeiture Fund for that County, approved February 21, 1887, entitled an Act "To regulate the Fine and Forfeiture Fund of the County of Cleburne," Acts 1886-7, p. 859, and that this act has never since been repealed by any local or special law, and I do not find that it has been repealed by any general law.

The Act of February 21, 1887, imposes certain duties upon the Court of County Commissioners of Cleburne County with reference to claims against the Fine and Forfeiture Fund of that County, and the question upon which Judge Glasgow desires to be advised is whether this fund is a State fund, and if so, whether the provisions of the act imposing certain duties upon the Commissioners' Court is valid.

There can be no doubt that this fund is a State fund, but there can also be no doubt, as an examination of the cases cited under Section 6888 of the Code of 1907 will show, that the Legislature has full control over this fund, and may direct its expenditure, or the manner of its expenditure, as it sees fit.

As is well stated in the case of Sanders v. Elmore County, 117 Ala. p. 543-546, "The Court of County Commissioners has no control over the fines and forfeitures, or power to dispose of the fund, although placed in the custody of the County Treasurer for convenience of disbursement pursuant to law."

If the Legislature, in the exercise of its discretion and its control over the fund, sees fit to place it in the hands and under the direction and control of the County Treasurer, they

would equally have the right to place duties in connection with the fund upon the court of County Commissioners.

I, therefore, see no objection whatsoever to the Act of February 21, 1887, and am of the opinion that the officers of Cleburne County should be governed thereby unless the same has been repealed by some local act of which I am not informed.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

FRANCHISE TAX FOR COUNTY PURPOSES—LEVY OF—RECOVERY OF.

July 30, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

I beg to acknowledge the receipt of your letter of the 26th inst., requesting to be advised upon the questions presented to you in the letter of Mr. J. L. Peters, which you enclosed in your letter.

From Mr. Peter's letter, it appears that at the Junary term, 1912, the Board of Revenue of Shelby County made an order, under the provisions of the Revenue Bill, assessing an additional 50 per cent of the franchise taxes which had been levied for the State, for County purposes, but that through accident, no minute entry of this order was made. That thereafter, in May, at a term of the Board, this inadvertence was called to the attention of the Board, and the Board thereupon passed a resolution setting forth the error, and correcting the error, and ordering the minute entry amended so as to include this 50 per cent. levy for County purposes. It further appears from Mr. Peter's letter, that the Probate Judge had collected franchise taxes under the levy, but that he has not paid this money to the County Treasurer, being somewhat doubtful as to the validity of the levy.

After an investigation of this matter, I beg to advise you that it is my opinion that the Board of Revenue had the au-

thority, at a subsequent term, to amend by resolution the minutes of the January term, and that such an amendment would be in the nature of an amendment nunc pro tunc, and relate back to the January term. This amendment nunc pro tunc could be made upon the presentation to the Board of sufficient evidence that the order had been made at the January term of the Board but inadvertently omitted from the minutes.

I beg to advise you further, that parties having paid this franchise tax to the Probate Judge voluntarily, and without protest, would be estopped from recovering this money from the Probate Judge, and it is my opinion that the levy referred to is a valid one, and that the Probate Judge should pay all franchise taxes collected under this levy for County purposes to the County Treasurer.

I herewith return you Mr. Peter's letter handed to me in this matter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ARCHITECT'S COMMISSION ON NEW COUNTY JAIL.

July 31, 1912.

Hon. Chas. E. McCall,
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

Yours enclosing letter from W. H. Griffin, Treasurer of Calhoun County, and requesting me to advise you thereon, received.

From the letter of Mr. Griffin, it would appear that the Commissioner's Court of Calhoun County has let a contract for the erection of a new County jail, and has employed an architect to supervise the construction of said jail, and that in the contract with the architect, there is a clause which reads as follows: "That the architect's commission is to be reckoned upon the total cost of the building, including all stationary fixtures." It is also provided by the contract that 50 per

cent of the architect's commissions shall be paid when the contract for the building is let, and that the contract for the building has been let. The question upon which the County Treasurer desires to be advised is whether the architect is entitled to a commission on the amount paid for cells or only on the amount paid without the cells.

After an examination of the plans and specifications, and the data on file in the office of the State Prison Inspector, I am of the opinion, and so advise you, that the architect is entitled to commissions upon the entire amount of expenditure called for by the contract.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

MUTUAL OR INTER-INSURANCE COMPANIES—INCLUDED IN SECTION 4543 OF THE CODE.

August 1, 1912.

Hon. Cyrus B. Brown,
Insurance Commissioner,
Capitol.

Dear Sir:—

I am in receipt of your letter requesting me to advise you whether what are known as mutuals, or inter-insurance companies, and reciprocal associations which do business on a plan whereby every member of the association becomes liable to every other member of the association for a certain portion or part of its losses up to a limit fixed at the time of his becoming a member, and where, although a corporation cannot become a member, a stockholder may become a member and insure the property of the corporation as if it was his own individual property, is doing an insurance business.

This question is answered by the provisions of Section 4543 of the Code of Alabama which, so far as applicable, is as follows: "When consistent with the context, and not obviously used in a different sense, the term 'company' or 'insurance company,' as used in this article, includes all corporations, associations, partnerships, or individuals engaged, directly or indirectly, as principal in any business of insurance."

That such an association is engaged as principal in insurance business there can be no question, and, therefore, under our statute, it necessarily follows that whatever form of organization they may take, they cannot by that means, prevent themselves from being an insurance company under the provisions of Section 4543 of the Code above quoted.

I return you herewith the papers enclosed.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PURE FOOD AND DRUG CLERK—EXPENSES OF.

August 1, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

I am in receipt of your letter enclosing the account presented by C. H. Billingley, pure food and drug clerk, for expenses of a trip from Montgomery to Seattle, Wash., and return, to attend the session of the American Association of Food, Dairy and Drug Officials held in Seattle, Wash., July 9th to July 12th, 1912, with the request that I advise you as to whether this item is a proper charge under the provisions of the act approved March 9, 1911, entitled an Act "To provide for and regulate the manufacture and sale of commercial feeding stuffs in Alabama; to further provide for registering, tagging, sampling and analyzing commercial feeding stuffs, and to fix penalties for violations of this act."—Acts 1911, p. 104.

I can find no provision of law which authorizes this item to be charged to the State.

There is in Section 11 of the act a provision for the payment of the salary of the special food, drug and feed clerk, and for the payment of all expenses incurred in enforcing the provisions of the act, but I cannot see how a trip to attend a convention of food and drug men, however beneficial and instructive it may be, and however much it may tend to render the official a better and more serviceable official, can be con-

strued as an expense incurred in enforcing the provisions of the act.

I am, therefore, of the opinion, and so advise you, that this item is not a proper charge against the State.

I return you herewith the account enclosed in your letter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE LAND AGENT—EXPENSES OF.

August 3, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

I beg to acknowledge receipt of your letter of the 30th inst., enclosing letter of Hon. W. J. Martin, State Land Agent, in which Mr. Martin asks to be advised as to whether or not he is entitled to the expense account provided for in Section 896 of the Code of Alabama at all times during his employment, or only while actually traveling out of Montgomery.

Replying to your letter, I beg to advise you that after an investigation of the entire article of the Code in which this Section appears, it seems that the matter of the payment of this expense account is placed largely within the discretion of the Governor. The article above referred to provides for the employment of the land agent, his compensation, expenses, duties, etc. From a careful reading of this article, it is clear that at the time of the passage of these statutes by the Legislature, the Legislature did not have in contemplation that it would be necessary to employ a land agent regularly and permanently, and therefore, left the question of the time of the employment to the sound discretion of the Governor. It appears that it is the duty of the Governor to fix the salary of the land agent within the limitation prescribed by the Legislature, and it is also the duty of the Governor to pass upon and approve the expense account of the land agent, limited by the maximum amount as fixed by the Legislature. The par-

ticular section which refers to the expense account says that the expenses shall be allowed while actively engaged in work, and I am of the opinion that these expenses can be allowed by the Governor to the land agent for any time during which he has been employed by the Governor to act as land agent, and while he is engaged in acting as such officer.

I return herewith Mr. Martin's letter.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

STATE BOARD OF COMPROMISE—AUTHORITY TO SETTLE CHARGE MADE BY EXAMINER AGAINST COUNTY OFFICER.

August 6, 1912.

Hon. Chas. E. McCall,
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter, requesting me to advise you as to whether the State Board of Compromise has authority to settle with a County Treasurer a charge made against him by an Examiner of Public Accounts for warrants paid for keeping the poor outside of the County poor house, received.

In reply, I beg to advise you that the State Board of Compromise derives its sole authority from the provisions of Section 2441 of the Code, and by the terms of said section, they are limited to compromising and settling any claims of the State, and the claims about which you inquire are claims of the County.

I am, therefore, of the opinion, and so advise you, that the State Board of Compromise has no authority to compromise or settle the claims about which you inquire.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PURE FOOD AND DRUG ACT—AUTHORITY TO MAKE INSPECTIONS.

August 6, 1912.

Hon. R. F. Kolb,
Commissioner of Agriculture and Industries,
Capitol.

Dear Sir:—

Your letter of the 5th inst., requesting me to advise you whether, under the provisions of an act approved August 26, 1909, entitled an Act "To regulate the sale of food and drugs in the State of Alabama, to provide for enforcement and inspectors and prescribe penalties for violations thereof," Acts Special Session, 1909, page 237, you have authority to establish rules and regulations as to the sanitary conditions of restaurants and hotel dining rooms and kitchens, and also whether under the provisions of said section, you have authority to enter these places where food is being prepared and make examinations, received.

In reply, I beg to advise you that after a careful consideration of the entire act, and the purpose and intent thereof, I am unable to find where you have any authority to establish such rules and regulations, or to enter such places for the purpose of making the examinations inquired about.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

WARRANTS ON COUNTY—COUNTY'S RIGHT TO ISSUE.

August 7, 1912.

Hon. Frank V. Evans,
Examiner of Public Accounts,
Vernon, Alabama.

Dear Sir:—

Your letter of the 2d inst., propounding to me certain questions, received.

The first question upon which you desire to be advised is, "Without a vote of the people, and without special statutory

authority, the County Commissioners of Lamar County have issued interest bearing warrants in the sum of $30,000.00 to $40,000.00 for the erection of a court house and paid same." You thereby present the question of legality of this action of the Commissioners' Court.

In reply, I beg to advise you that this question has been tfice passed upon by our Supreme Court. First, in the case of Matkins v. Marengo County, 117 Ala. 155, and again in Tally v. Commissioner's Court, 39 South. 167, in both of which cases it was held that the Commissioner's Court had authority to issue interest bearing warrants for the purpose of erecting court houses.

I am, therefore, of the opinion, and so advise you, that this action of the Commissioner's Court was legal.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ORGANIZATION OF CORPORATION NOT FOR PROFIT—ACT OF OCTOBER 12, 1903, REPEALED

Montgomery, Ala., August 14, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of the 9th inst., enclosing letter from Hon. J. H. H. Smith, Judge of Probate of Baldwin County, who enclosed application of certain persons to form a corporation under the Act approved Oct. 1, 1913, Gen. Acts, 1903, p. 342-343, and requesting me to advise you thereon, received.

In reply, I beg to advise you that the Act of October 1, 1913, entitled an Act "To provide for the organization and regulation of corporations not for pecuniary profit in the sense of paying interest or dividends on stock, but for the benefit of its members through their mutual co-operation and association," was repealed by the going into effect, on the 1st day of May, 1908, of the Code of Alabama known as the Code of 1907. This act, not being subject to the exceptions

contained in Section 10 of the Code of 1907, is repealed by the general repealing clause of Section 10 of the Code of 1907.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BLOOD MEAL MIXTURE—NOT SUBJECT TO USE AS EXCLUSIVE TRADE-MARK.

Montgomery, Ala., August 20, 1912.

Hon. Reuben F. Kolb,
Commissioner of Agriculture and Industries,
Capitol.

Dear Sir:—

Your letter in reference to the claims of the Grasselli Chemical Company, of Birmingham, to the sole right to register "Blood Meal Mixture" as the name of their brand of fertilizer, together with the communication from the attorney for the Grasselli Chemical Company in reference thereto, received.

In your letter, you state that the words *blood* and *meal* are common terms, and are used almost exclusively in this State as a basis for nitrogen.

The fact that the words *blood* and *meal* are common words, descriptive of the ingredients used in mixing fertilizer, is a matter of such public notoriety that there can be no question that in describing a fertilizer mixture, they are properly used as indicating the character of the mixture.

The claim by the Grasselli Chemical Company is that it was the first to register with the Department of Agriculture the words *blood meal mixture* as a brand name or trade mark under the provisions of Section 39 of the Code, and that upon so registering the name, "Blood Meal Mixture," it became a brand name or trade mark to the use of which, they were entitled to protection under the provisions of the section of the Code above referred to.

This inquiry presents the question as to whether or not the words *blood meal mixture* are capable of being made a brand name or trade mark such as is contemplated by Section 39 of the Code.

In considering this question, it must be borne in mind that brand marks and trade marks and trade names are terms

which have a legal significance as well as their ordinary significance, and the question thus presented is whether the words *blood meal mixture* in thir association together are capable of becoming a brand name or trade mark.

That it was the purpose of our statute to protect any one in the use of a proper brand name or trade mark, there can be no question, but I do not believe it was the purpose of the statute to change the rule, which will hereafter be referred to, which prohibits the use of common descriptive words which merely describe the substances used, and did not distinguish the article produced by one person.

In the case of Wells Richardson and Company v. Seigle Cooper and Company, 160 Fed. 77, the United States District Court, in an opinion by Judge Kohlsaat, held that while the words *Celery compound* could well be considered descriptive, yet under the facts shown in the case, among which were the representation of heads of celery and also an inspection of bottles, cartoons and inscriptions thereon, an injunction could properly issue restraining the use by the defendant of said "trade mark and form of package."

The contention of the Grasselli Chemical Company is somewhat supported by the decision of the Supreme Court of New York in Rawlinson v. Brainard and Armstrong Company, 59 N. Y. Sup. 880, and also W. R. Lynn Shoe Company v. Auburn-Lynn Shoe Company, 100 Me. 461, 4 L. R. A. (N. S.) 960. However, the better line of reasoning, it appears to me, is that found in the cases of Hygeia Distilled Water Co. v. Hygeia Ice Co., 49 L. R. A. 147; Clinton Metallic Paint Co. v. New York Metallic Paint Co., 50 N. Y. Sup. 437; Wm. Wrigley, Jr., and Co. v. Grove Company et al, 183 Fed. 99.

The reasoning of Judge Gaynor in Clinton Metallic Paint Co. v. New York Metallic Paint Co., supra, is very cogent, and appeals to me as the correct solution of this question. "I do not see that the name 'Clinton Hermatite Red' may be exclusively appropriated by the plaintiff for its product. It is nothing but the obvious and correct name of such product. It is descriptive of such product and discloses of what it is made. Words or names which describe the product or ware to which they are applied, by indicating its kind, quality or ingredents, may not be exclusvely appropriated as a trade mark therefor. If they show forth these facts, they are not

saved by also showing their latter only, and if it shows the former also, it is not maintainable against those who can truthfully use it to describe or name their similar article. Words of the common stock of words, expressive of a fact or facts, may be used by any one for that purpose. No one may take them to his exclusive use to mark his product or ware, against one by whom they are being truthfully used to inform the public of the kind, character or composition of his similar product or mare. As all persons have the right to produce and vend similar articles, it follows that they have the right to use any words, general or scientific, to describe them. * * * * * * * * * * * In Caswell v. Davis, the name 'Ferro-Phosphorated Elixir of Calisaya Bark' was not upheld as a trade mark for the reason that it disclosed the ingredients, and was, therefore, descriptive of the article."

In my opinion, the words, "Blood Meal Mixture" are merely a description of the article, of its character and composition, and are not words which could properly become a brand name or trade mark.

I am, therefore, of the opinion, and so advise you, that the Grasselli Chemical Company, although it registered the words *Blood Meal Mixture* as a brand name or trade mark under the provisions of Section 39 of the Code, is not entitled to its exclusive use, and that such words are not to be considered by you as a brand name or trade mark, such as authorized by Section 39 of the Code.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

JUDGE OF PROBATE NOT ENTITLED TO COMMISSIONS ON FINES—ENTITLED TO COMMISSIONS ON LAND REDEMPTION FUND.

August 20, 1912.

Hon. Frank V. Evans,
Examiner of Public Accounts,
Heflin, Alabama.

Dear Sir:—

Your letter of the 17th inst., requesting me to advise you as to certain questions therein submitted, received.

Your first question is, "Does the law authorize a charge of commission on fines collected by the Probate Judge, as Clerk ex-officio of the County Court, when he pays said fines into the County Treasurer?"

In reply, I beg to advise you that under sections 6655 and 6656 of the Code, the fees which are allowed in the County Court are expressly stipulated, and it is expressly provided in Section 6655, "The following fees shall be allowed for services specified and none other" and in Section 6656, "The Judge of the County Court shall receive no other compensation than the following fees."

The language of the two sections of the Code is clear and explicit and does not allow any commissions on fines collected.

Your second question is, "Is the Probate Judge entitled to commission on land redemption fund?"

In reply, I beg to advise you that it has been the practice of the State Auditors for a long number of years to allow commissions on these funds, and in view of this fact, I see no reason to depart from the expressed policy of that department.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BANKS—LIABLE FOR CHARTER FEES.

August 22, 1912.

Hon. Frank V. Evans,
Examiner of Public Accounts,
Heflin, Alabama.

Dear Sir:—

Your letter requesting me to advise you whether, under the provisions of the act creating a banking department for the State of Alabama, banks are exempt from the payment of charter fees of One Dollar per thousand upon the amount of the increase of their capital stock, received.

In reply, I beg to advise you that I find nothing in the act creating the banking department which would relieve them

from the payment of this charter fee, and, therefore, I am of the opinion, and so advise you, that they are liable therefor.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY MAY PAY FOR ADVERTISING BIDS TO BUILD STATE AID ROAD.

August 30, 1912.

Hon. Chas. E. McCall,
Chief Examiner of Public Accounts,

Dear Sir:—

Yours requesting me to advise you upon the communication of Judge Tankersley, Probate Judge of Crenshaw County, Alabama, received.

From the communication of Judge Tankersley, it appears that the Commissioner's Court of Crenshaw County has passed a resolution authorizing him, as Probate Judge, to draw warrants on the County Treasurer for all proper and necessary advertising for bids, and for details of every kind that may be necessary to be performed, and for expenses incurred in and about the construction of a highway in Crenshaw County, which highway is being constructed with State aid under the provisions of the act creating the State Highway Commission, approved April 5, 1911, Acts 1911, p. 223. The order also recites that the warrants so drawn shall first be supported by an itemized, sworn statement, and shall be drawn as authorized and instructed by the Highway Engineer.

Construing this order in connection with the provisions of the act creating the State Highway Commission, above referred to, and the provisions of Section 5765 of the Code, I am of the opinion that such order is authorized.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

TAX ON SHARES OF STOCK TO BE PAID BY CORPORATIONS.

September 6, 1912.

Hon. C. B. Smith,
State Auditor,
Capitol.

Dear Sir:—

Your letter of the 3d inst., enclosing letter from W. S. Pugh, Tax Collector of Washington County, and requesting me to advise you thereon, received.

From Mr. Pugh's letter, it appears that the E. W. Gates Lumber Company appealed to the Commissioners' Court from the assessment of its shares of capital stock, that the matter was decided against it by the Commissioners' Court, but that it still has failed and refused to pay the tax, and that he, as Tax Collector, has made a levy on certain property owned by said company and is proceeding to sell the same to collect the tax so assessed against said company, but that he is in doubt about his right to proceed with said sale.

The provisions for the assessment of said stock and the payment of the same by the corporation is clear, the direction of the statute being "The corporation shall pay for the share-holder the tax assessed against his share and the amount so paid for any shareholder shall be a lien on any interest which such share-holder may have in any property owned by the corporation." If the company fails to pay, the direction of the statute is that the Tax Collector shall look to the Company to enforce the payment, and that it is his duty to levy on property and enforce said payment as he would the payment of any other taxes.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

ELECTION CLERKS—COMPENSATION OF.

September 12, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Columbiana, Alabama.

Dear Sir:—

Your letter of the 11th inst., in reference to the pay of inspectors and clerks at primary elections, received.

In reply, I beg to advise you that the County can and should pay the expenses of primary elections, if held in accordance with the provisions of the act approved April 14, 1911, entitled an act "To regulate primary elections in the State of Alabama," Acts 1911, p. 421, and particularly the provisions of Section 5 thereof.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY TREASURER OF SHELBY COUNTY—DUTY UNDER ROAD LAW—COMPENSATION FOR.

September 12, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Columbiana, Alabama.

Dear Sir:—

Your letter of the 11th inst., in reference to certain matters connected with the road laws of Shelby County, received.

These matters are governed by the provisions of an act entitled an act "To provide for the control, working, maintenance, building and improving of the public roads and bridges of Shelby County," Local Acts, 1911, p. 341.

In your letter, you state that no supervisor of public roads and bridges, was ever appointed by the Commissioners' Court or Board of Revenue, but that the County was divided into four districts and the member of the board residing in each district was appointed supervisor for his district at a salary of $3.00 per day while superintending the roads, and you desire to be advised whether this action was proper and legal.

In reply, I beg to advise you that this action was not proper or legal as it was the clear intent of the act that the supervisor should be a person entirely different from a member of the Board of Revenue, although he should be subject to their control and direction. The act never intended and does not authorize, but by every reasonable implication prohibits the members of the Board of Revenue from acting as supervisor, or dividing of the County into districts, and contemplates that there shall be one supervisor who shall not be connected with the board except in that he is subject to their direction and control.

Your second question is whether the Treasurer of the County can legally be the collector of the road fund as provided in Section 8 of said act and receive the commission provided in Section 13 of said act.

This duty is a new one placed upon the Treasurer which was not contemplated by the act creating the office of County Treasurer, but I can see no reason why the Legislature could not designate him to do this work and fix his compensation therefor.

I am, therefore, of the opinion, and so advise you, that the County Treasurer can legally perform the duties imposed upon him by Section 8 of the act above referred to and receive the compensation provided in Section 13 of said act.

PROBATE JUDGE LIABLE FOR DIFFERENCE WHEN HE FAILS TO COLLECT FULL LICENSE TAX.

September 16, 1912.

Hon. H. Y. Brooke,
Examiner of Public Accounts,
Troy, Alabama.

Dear Sir:—

Your letter of the 10th inst., requesting me to advise you upon the state of facts therein recited, received.

From your statement of facts, it appears that a corporation which should have paid for its license a tax of $125.00 to the County, and $250.00 to the State, was by the Probate Judge issued a license at a less rate, and the question upon which

you desire my advice is should you charge the Probate Judge with the difference between the amount of the license properly due and the amount collected by him.

In reply, I beg to advise you that under Section 2361 of the Code, the amount of the license tax upon any business is fixed, and by Section 2403, it is made the duty of the Probate Judge to collect this license tax before he issues any license to such person. It, therefore, must follow that if the Probate Judge issues a license without collecting the proper amount, he is liable to the State and County as if he had collected the proper amount, for any other construction of the statute would permit the Judge of Probate, and not the Legislature to fix the amount of license taxes.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

SHERIFFS' FEES FOR PROCURING NAMES OF LIQUOR DEALERS—CLERK OF SHELBY COUNTY—EX-OFFICIO FEES OF—PROBATE JUDGE OF SHELBY COUNTY—COMPENSATION FOR ROAD DUTY.

September 17, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Columbiana, Alabama.

Dear Sir:—

Your two letters of the 12th inst., requesting me to advise you upon certain matters, received.

The first question upon which you desire to be advised is, "Does Section 18 of the act approved August 25, 1909, (p. 63, Acts, 1909) repeal Section 2 of the act approved August 9, 1907 (Gen. Acts, 1907, p. 643) allowing sheriffs the costs of procuring lists of liquor dealers?"

An examination of the act of 1907 shows that it provides by Section 2 as follows: "That for such services, the said sheriffs shall receive the sum of twenty-five dollars per annum and the expense and costs of publishing the same, to be paid out of the general fund of his County."

The language employed in Section 2 of the act of 1907 is identical with the language used in that portion of Section 18 of the act of 1909 just quoted, except that the words "and the expense and costs of obtaining such list," which are found in the act of 1907, are not found in the act of 1909.

It, therefore, clearly appears that it was the legislative intent that the expenses and costs of obtaining such list should no longer be a charge against the County.

Your second question is, "Under Section 4 of the Local Act establishing the County Court of Shelby County (p. 46-47) Acts, 1909), the Clerk of said Court claims that he is entitled to six hundred dollars per annum for ex-officio services under the Local Law enacted in 1901 (2024, Acts, 1901). Is not that law repealed by Section 3710 of the Code, and is his ex-officio fees not fixed by the assessed valuation of property?"

Upon investigation, I find that on July 20, 1909, my predecessor in office, in an opinion to one of the assistant examiners, held that a Local Act fixing the ex-officio fees of the Clerk of the Circuit Court of Limestone County, and also the ex-officio fees of the Sheriff and of the Probate Judge of that County, were not repealed by the adoption of the Code of 1907, but that such fees were expressly saved by the provisions of Section 3703 of the Code. I see no reason, therefore, to depart from the ruling made by him.

Your last question is, "Under the Local Law creating the Board of Revenue of Shelby County, the Probate Judge is not a member of said Board and has nothing to do with the roads. Is he entitled to ninety dollars per annum for road services?"

If the Probate Judge has nothing to do with the public roads and does nothing in connection with them, then, of course, it would be improper for the Board of Revenue to allow him any sum whatsoever for road services. The provision allowing the Judge of Probate compensation for road services is that he may receive such sum as if allowed him by the Court of County Commissioners not exceeding ninety dollars. There is no mandate upon the Court of County Commissioners to allow him anything. The law merely permits such an allowance and fixes the limit of such allowance. If the Probate Judge performs any duties in connection with the public roads, although not as a member of the Board of Revenue, the Board of Revenue may allow him such sum as in their judgment may

be proper, not exceeding ninety dollars per annum, for such services.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

BOARD OF REGISTRATION OF JEFFERSON COUNTY—SESSIONS OF.

September 17, 1912.

Hon. Emmet O'Neal,
Governor,
Capitol.

Dear Sir:—

Your letter requesting me to advise you upon the matter submitted in the letter of Mr. J. B. Wood, Chairman of the Board of Registrars of Jefferson County, received.

Mr. Wood wishes to know how long the Board of Revenue in Jefferson County may sit for the purpose of the registration of voters.

Under the provisions of Section 305 of the Code, the Board must visit each precinct in the County at least once between July 1st and October 1st in each even numbered year, but the time occupied in filling these appointments shall not exceed forty working days in any County of less than fifty thousand population, and sixty working days in Counties of more than fifty thousand population.

By Section 309, the Board is required to meet on the last Monday in September of each even numbered year, and remain in session one week, and under the provisions of Sections 323-330, they are required to sit for one week, beginning on the second Monday in August in each even numbered year for the purpose of purging the registration list.

In my opinion, the limitation of sixty days imposed by Section 305 of the Code, has no reference to, or bearing upon, the week in which they are required to sit under Section 309, or the time they are required to sit for purging the registration list under the provisions of Section 323-330 of the Code.

I am, therefore, of the opinion, and so advise you, that the Board may remain in session for sixty days under the provisions of Section 305 of the Code, and for an additional week under the provisions of Section 309, and sit another week under the provisions of Section 323-330 of the Code.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

PROBATE JUDGE OF CULLMAN COUNTY—FEES OF.

September 19, 1912.

Hon. Chas. E. McCall,
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter, enclosing the letter of Judge R. I. Burke, Judge of Probate, of Cullman County, and requesting me to advise you thereon, received.

From the letter of Judge Burke, it appears that at the session of the Legislature of 1892-93, a bill was passed fixing the legal rate for recording in the Counties of Cullman, Blount and St. Clair at ten cents per hundred words; the Legislature, by Section 3720 of the Code, regulating the fees of Probate Judges, provided that fifteen cents per hundred words should be allowed the Probate Judges for recording certain instruments as those affected by the act of 1892-93.

I find upon investigation, that in an opinion given you in reference to the effect of the adoption of the Code, upon similar Local Acts, by my predecessor in office, he advised you that such local acts were still in force and should govern, and I see no reason to depart from the ruling then made by him.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CLERK OF COUNTY OF SHELBY COUNTY—FEE OF.

September 24, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Columbiana, Alabama.

Dear Sir:—

Your letter making further explanation as to the Clerk of the County Court of Shelby County, received.

The provisions of Section 4 of the Act creating the County Court of Shelby County (Acts Special Session, 1909, p. 45), so far as pertinent are, "And shall be entitled to the same fees as are or may be allowed the Clerks of the Circuit Court of the State for like services and the same shall be collected as such fees are collected in the Circuit Court."

The provision upon this subject relates not to the fees of the Circuit Clerk of Shelby County, but to Clerks of the Circuit Court of the State, thus evincing the evident legislative intent that his fees should be governed by the general law and not by any Local Law. If the Legislative intention had been that he should receive the same fees as the Circuit Clerk of Shelby County receives under the local law, the Legislature would have so provided.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

WITNESS' FEES BEFORE COUNTY COMMISSIONERS IN TAX CASES—TAX ASSESSORS' FEE ON ASSESSMENT BY TAX COMMISSIONER.

September 24, 1912.

Hon. Chas. E. McCall,
Chief Examiner of Public Accounts,
Capitol.

Dear Sir:—

Your letter, enclosing the letter of Judge J. H. H. Smith, Judge of Probate of Baldwin County, and requesting me to advise you thereon, received.

The question upon which Judge Smith desires to be advised is whether witnesses, summoned before the Court of County Commissioners in cases of tax raises, at the request of the County Tax Commissioner, should be paid for their attendance. If so, and the raise is sustained, should their witness fees be taxed against the tax-payer, and if it is, how collected; but if the raise is not sustained, should their witness fees be taxed against the County, and would such witness fees be a proper charge against the County.

I have examined carefully the letter of Judge Smith and also the Sections of the Code bearing upon the question.

I find that under Section 2099 of the Code, provision is made for the payment of witnesses when summoned by the Tax Assessor, but I find no provision for the payment of witnesses summoned by the Tax Commissioner, and I am, therefore, of the opinion, and so advise you, that there is no authority for the payment of witnesses summoned before the Court of County Commissioners at the instance of the Tax Commissioner.

You also inquire whether the Tax Assessor is entitled to receive commissions on State taxes derived from assessments made by the County Tax Commissioner under Section 2250 of the Code.

In reply, I beg to advise you that by Section 2097 of the Code, the Tax Assessor is allowed fees on State taxes, whether general or special, *assessed by him.* Where the taxes, after assessment by the Tax Assessor, are raised by the Board of County Commissioners, upon motion of the Tax Commissioner, the amount of taxes assessed as a result of such raise, is certainly not *"taxes assessed by him"*—the Tax Assessor. To allow him commissions on such raises would be to permit him to profit by his own neglect of duty in not placing a proper assessment against the tax-payer in the first instance.

I am strengthened in this view by reason of the provision of Section 2098, which provides that he shall not receive commissions on errors, abatements or deductions, nor after the abstract book has been turned over to the collector, shall he receive commission on an assessment which has been objected to by the tax-payer until such objection has been disposed of.

Yours very truly,

ROBERT C. BRICKELL,
Attorney General.

SECOND MORTAGE—TAX DUE ON EVERY INSTRUMENT FILED FOR RECORD—FEES PAYABLE TO COUNTY TREASURY GO TO GENERAL FUND.

September 6, 1912.

Hon. H. Y. Brooke,
Examiner of Public Accounts,
Troy, Alabama.

Dear Sir:—

Your letter of the 28th ult., enclosing copy of a mortgage recorded in Pike County, showing that, after the paper was filed in the office of the Probate Judge, certain changes were made at a later date, substituting in part other property for that covered by the original mortgage, and requesting me to advise you as to certain questions therein, received.

Your first question is, "Should not an entirely new paper have been presented, or the old paper with the addition recorded as a whole, to comply with Section 14, p. 173 of the Acts of 1911?"

In reply, I beg to advise you that while it might be the better practice to follow the course suggested in your question, it is not legally necessary.

Your second question is, "Where these additions were made to mortgages prior to the adoption of the Act of 1911, p. 173, Section 14, should not the Probate Judge collect the mortgage tax of fifteen cents on each hundred dollars represented by the amended mortgage when presented to him for record? The substitution of additional property making the instrument in the nature of a new mortgage."

In considering this question, I find that on June 22, 1907, my predecessor, Hon. A. M. Garber, said: "I think the statute contemplates that this tax (referring to the tax upon mortgages) shall be paid upon each instrument filed for record. From the language employed, I do not see how we can escape the conclusion that this construction applies, although two mortgages may be given to secure the same indebtedness."

That he was correct in this ruling, I do not doubt. The substitution referred to by you is in effect the making of a new mortgage, and to permit the old mortgage to be amended in this manner, without the payment of the mortgage tax

would be to permit the doing indirectly of that which the law would not allow to be done directly.

I am, therefore, of the opinion, and so advise you, that the Probate Judge should have collected a mortgage tax of fifteen cents on each one hundred dollars before filing the substitution.

Your third question is, "Where a local law (See Acts of 1903, p. 336, Section 7) provides that fees shall be paid into the County Treasury, do not such fees go into the general fund of said County?"

I have traced the history of the local act to which you refer to the time of its original enactment, February 25, 1889.

The original act being an act entitled an act "To establish a criminal court for the County of Pike with criminal jursdiction in misdemeanor cases," provided by Section 16 that the Deputy or County Solicitor of Pike County should attend and prosecute in said Court, and should receive the same compensation and be paid in the same manner as then provided by law. This act was amended by an act approved February 6, 1891, Acts 1890-91, p. 391, by providing that the deputy or County Solicitor should attend and prosecute in said Court, and should also represent the State in all habeas corpus proceedings, and for such services, should be entitled to a compensation of One Hundred Dollars out of fees to be assessed and collected as Solicitors' fees under the laws of the State, and provided that all excess of said fees should be paid into the State Treasury. The present act fixes the compensation at One Thousand Dollars under the same terms, and provides that the fees be paid to the County Treasury.

There is no direction in the statute as to what fund shall be entitled to receive said fees. It, therefore, follows not only by reason of the failure of the Legislature to provide that these fees should be paid into any special fund, but from the general legislative history of the act that the fees should be paid into the general fund of the County.

Yours very truly,

ROBERT C. BRICKELL,

Attorney General.

COUNTY NOT AUTHORIZED TO PAY MONEY ON GENERAL ORDER OF PROBATE JUDGE.

September 24, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Columbiana, Alabama.

Dear Sir:—

Your two letters of the 19th and 20th inst., in reference to the allowance by the Court of County Commissioners of claims against the County by a general order to the Probate Judge, and also the allowance of claims not audited and verified as provided by Sections 146-147 of the Code, received.

Such claims cannot be allowed, as to do so would be to destroy the statute.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

COUNTY CONVICTS—LAW GOVERNING.

September 25, 1912.

Hon. Chas. L. Townes,
Examiner of Public Accounts,
Wedowee, Alabama.

Dear Sir:—

Your letter, requesting me to advise you in reference to the payment of the Probate Judge for acting as hard labor agent for a County, received.

In reply, I beg to advise you that this question was passed upon by my predecessor in office, Hon. Alex M. Garber, in the opinion given the Hon. H. F. Lee, Examiner of Public Accounts, on January 30, 1909, a copy of which is enclosed to you. The sections of the Code of 1896 which are referred to in the opinion of Attorney General Garber seem to have been repealed or modified by the Code of 1907, but at a special session of the Legislature in 1909, the law governing County convicts was re-enacted practically as it was in the Code of 1896, and the Sections referred to in the opinion of former

Attorney General Garber were re-enacted without change of a word.

I am, therefore, of the opinion, and so advise you, that the law remains the same as stated in the opinion of my predecessor, which I enclose you.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CIRCUIT CLERK'S DUTY TO ISSUE EXECUTION IN FELONY CASES—CIRCUIT CLERK OF SHELBY COUNTY—EX-OFFICIO FEES OF.

September 25, 1912.

Hon. J. T. Gorman,
Examiner of Public Accounts,
Columbiana, Alabama.

Dear Sir:—

Your letter of the 23d inst., making certain inquiries received.

The first question to which you direct my attention is where a prisoner charged with the commission of a felony is removed under the provisions of Section 6638 of the Code, and is afterwards convicted, and the clerk fails to issue an execution against him for the costs of such removal immediately upon the adjournment of the Court, is the Clerk not liable for the cost of such movement by reason of his failure to issue such execution?

In reply, I beg to advise you that the words of the statute are mandatory that he shall immediately issue the execution and deliver the same to the Sheriff of his County. If the Clerk fails to issue this execution he fails to discharge his duty as imposed upon him by the statute, and I am, therefore, of the opinion that he would be liable for the amount expended by the State for such removal.

Your second question is, "Under the local law of 1909 creating the County Court of Shelby County, the Clerk of the Circuit Court was ex-officio Clerk of the County Court until January, 1911. Was the Clerk entitled to ex-officio fees in

both the Circuit and County Courts from 1909 to January, 1912?"

In reply, I enclose you copy of an opinion given you as to the ex-officio fees of the Clerk of the Law & Equity Court of Walker County. The propositions are so similar that the opinion in the Walker County case is bound to govern in the case to which you refer.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

HIGHWAYS IN STATE—APPROPRIATION FOR.

September 25, 1912.

Hon. Robert E. Spragins,
Chairman State Highway Commission,
Huntsville, Alabama.

Dear Sir:—

Your letter of the 20th inst., requesting me to advise you as to whether or not a County which had not availed itself of the provisions of the act approved April 5, 1911, known as the State Highway Act, Acts 1911, p. 223, and had taken no steps to avail itself of the provisions of the act during one year, could during the next year take advantage of the act and receive the benefit of the appropriation for both years, received.

This question depends for its solution upon the provisions of Section 10 of the Act creating the State Highway Commission above referred to, the provisions of which section are as follows:

> "Section 10. That on or before the first day of February of each year every County Treasurer or other proper authority shall certify to the State Highway Commission the amount of money expended for all purposes in road construction and maintenance and for bridges in his County during the preceding year. On or before the first of February of each year, the Highway Commission shall notify the Probate Judge of each County of the amount of money available that may be expended on public roads

in said County during such year. Should any portion of the money be appropriated for the benefit of any County not to be used by said County during the current year for which the same was appropriated, such sum of money shall remain in the State Treasury for the future use and benefit of said County, provided that all sums of money so appropriated and not used by any such County for a period of two years, shall revert and become a part of the general fund for the improvement of the State highways of Alabama, and shall be in addition to the annual appropriation made therefor."

If the provision in said Section, "Should any portion of the money" was not qualified by the last clause of the sentence, "provided that all sums of money so appropriated and not used by any such County for a period of two years," I would be of the opinion that it would be necessary for the County to have taken some steps to avail itself of the appropriation in order to be entitled to receive the double appropriation the next year, but after an examination of the act, and construing the provision of the first portion of the Section with the last portion of the Section, I am of the opinion, and so advise you, that although a County may not have taken any steps during one year to avail itself of the appropriation for that year, it may, by taking the proper action, approved by your Commission, during the next year avail itself of and be entitled to the appropriation for both years.

Yours very truly,
ROBERT C. BRICKELL,
Attorney General.

CIVIL CASES

PENDING AND DISPOSED OF

FROM

OCTOBER 1st, 1910 TO OCTOBER 1st, 1912

CIVIL CASES

PENDING AND DISPOSED OF FROM OCTOBER 1, 1910, TO OCTOBER 1, 1912.

LOUISVILLE & NASHVILLE R. R. CO. V. RAILROAD COMMISSION OF ALABAMA.

IN THE CIRCUIT COURT OF THE UNITED STATES, FOR THE MIDDLE DISTRICT OF ALABAMA.

This cause was dealt with in the report of my predecessor and was reported by him, as still pending.

This was a bill in equity filed by the Louisville & Nashville R. R. Co. to restrain and enjoin the Railroad Commission of Alabama from enforcing the Act approved February 5, 1903, Acts 1903, p. 771, requiring the railroad companies entering the City of Mobile to provide and construct a union passenger depot in that city. This cause has been finally determined adversely to the Railroad Commission, and an injunction perpetually restraining them from enforcing said act as against the complainant has been granted.

This case will not be appealed.

RAILROAD RATE CASES.

RAILROAD SUITS PENDING IN THE UNITED STATES CIRCUIT COURT AT MONTGOMERY, ALABAMA, AGAINST THE RAILROAD COMMISSION OF ALABAMA, ET AL.

These cases were dealt with in the report of my predecessor, and the public is generally familiar with them,

and an extensive notice of them here would not only be unnecessary but inappropriate.

The report of Special Master W. A. Gunter in the cases of Nashville, Chattanooga & St. Louis Railway Co., Louisville & Nashville Railroad Co., and South & North Alabama Railroad Co., sustaining the contention of the railroads was approved by the court, as was also the similar report by Special Master William S. Thorington in the cases of the Central of Georgia Railway Co. and the Western Railway of Alabama, and as a result of this action of the court, an injunction was issued restraining and enjoining the defendants from attempting to enforce the statute of this State in reference to the two and one-half cent passenger rate and the reduction of freight rates complained of in the bill.

These causes will be taken by appeal to the Supreme Court of the United States.

The suits brought by the other railroads in this State for the same purpose and which were settled with the former administration but which were retained on the docket of the court, have now been dismissd.

RAILROAD COMMISSION OF ALABAMA V. CENTRAL OF GEORGIA RAILWAY COMPANY.

BEFORE THE INTERSTATE COMMERCE COMMISSION.

This proceeding was treated of in the report of my predecessor, being a proceeding instituted by the Railroad Commission of Alabama to require the defendant railway company to establish a rate on uncompressed cotton.

At the institution of these cases, the Hon. Chas. D. Drayton, Washington, D. C., was associated with the State as counsel for the Railroad Commission.

This cause was heard by Commissioner Clements both in Montgomery and in Atlanta, and after long consideration by the Commission, the cause was restored to the docket and an order made to take further testimony.

STATE OF ALABAMA V. ENTERPRISE LUMBER COMPANY.

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY.

This suit was treated of in the report of my predecessor and was an action to recover six hundred dollars for the escape of three convicts who had been leased to the Enterprise Lumber Company.

Upon application to the Board of Compromise, a compromise of this cause was effected and the amount agreed upon has been paid into the State Treasury, and the case finally disposed of.

ROBERT BEASLEY V. W. W. BRANDON, AUDITOR.

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY.

This cause was treated of in the report of my predecessor and has been revised against C. B. Smith as the successor of W. W. Brandon as State Auditor.

This is a mandamus proceeding instituted on the 24th day of May, 1910, to require the Auditor to draw his warrant in favor of petitioner, a Confederate pensioner, for an amount larger than that which the Auditor had theretofore been paying to the petitioner.

This cause is still pending.

NORTHERN ALABAMA RAILROAD COMPANY V. RAILROAD COMMISSION OF ALABAMA.

IN THE CITY COURT OF MONTGOMERY, IN EQUITY.

This cause was also referred to in the report of my predecessor.

This is a bill to enjoin the enforcement of an order of the Railroad Commission to require the erection of a union depot at Jasper, Alabama. The evidence in this case has all been taken, and the cause is pending for decree before the Judge of the City Court of Montgomery.

STATE OF ALABAMA V. MOBILE PORTLAND CEMENT COMPANY.

This was an action brought by the State in the City of Montgomery upon a bond made by the defendant payable to the State to secure the payment of the tax for recording a certain mortgage, which tax had been fixed by the State Board of Compromise, and has been settled by payment in full of the amount due the State.

FRANK S. STONE V. C. B. SMITH, STATE AUDITOR.

This was an application for a mandamus to require the State Auditor to draw his warrant in favor of Frank S. Stone as Solicitor of the Thirteenth Circuit, payment of such salary having been refused by the State Auditor for the reason that said Stone had accepted and entered upon the discharge of the duties of an incompatible office.

This cause was decided in favor of the State.

NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY COMPANY V. RAILROAD COMMISSION OF ALABAMA.

This cause is pending in the City Court of Montgomery and is an appeal by the Nashville, Chattanooga & St. Louis Railway Company from an order of the Railroad Commission requiring the operation of a passenger train between Guntersville and Attalla once a day each way on Sundays.

SOUTHERN EXPRESS COMPANY V. RAILROAD COMMISSION OF ALABAMA.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF ALABAMA.

This was an action by the Southern Express Company v. Railroad Commission to enjoin the enforcement of the express rates prescribed by the Commission which had been enforced for a period of about five years upon the theory that a test of the rates had shown that they were confiscatory.

This cause was settled by allowing the Express Company to raise its rate on sea products; the others remaining as fixed by the Commissoin.

STATE OF ALABAMA, EX. REL. ATTORNEY GENERAL, V. CHRISTOPHER C. SCHEUING.

This was an information filed by the State upon the relation of the Attorney General seeking to oust Christopher C. Scheuing from the office of sheriff of Cullman County, Alabama, which office he was then holding un-

der a judgment of the probate court of Cullman County rendered in the contest instituted therein by said Scheuing against Chal W. Bryce who had been declared elected at the general election held in November, 1910, the position of the State being that under the Act of 1911 changing jurisdiction for this character of contest from the probate court to the circuit court, the probate court was without authority to hear and determine said contest. The contention of the State was sustained by both the circuit court and the Supreme Court, and said Scheuing was ousted from office as such sheriff.

ARMSTRONG V. O'NEAL.

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY.

This was an application for a writ of mandamus by D. W. Armstrong against Emmet O'Neal, as Governor, to require him to call an election for the purpose of changing the county site of Geneva County.

The mandamus was denied.

ALABAMA CONSOLIDATED COAL AND IRON CO. V. L. L. HERZBERG.

IN THE CITY COURT OF GADSDEN.

This was one of a number of suits which were filed, involving the tax upon commissaries imposed by the Revenue Law of 1911, and this case was tried as a test case, all other cases, it being agreed, should abide the result of this case.

The Supreme Court decided that the tax imposed upon commissaries by Section 33a of the Revenue Bill of 1911 was unconstitutional.

BESSEMER NATIONAL BANK V. GEO. B. TARRANT, TAX COLLECTOR.

IN THE CITY COURT OF BIRMINGHAM.

This is a suit by the Bessemer National Bank against Geo. B. Tarrant as Tax Collector of Jefferson County to recover the amount of taxes paid by the complainant to him upon the tax assessed against its shareholders for the amount of its capital stock invested in bonds of the State of Alabama.

This cause has been decided in favor of the State by the Court of Appeals, and is now pending in the Supreme Court on a petition for a writ of certiorari.

KANSAS CITY, MEMPHIS & BIRMINGHAM RAILROAD COMPANY V. GEO. B. TARRANT, TAX COLLECTOR.

IN THE CITY COURT OF BIRMINGHAM.

This is a suit by the Kansas City, Memphis & Birmingham Railroad Company against Geo. B. Tarrant, as Tax Collector of Jefferson County to recover franchise tax paid by it, as a corporation, under Section 12 of the Revenue Bill.

This case was decided in favor of the State in the City Court and is now pending in the Supreme Court.

RAILROAD COMMISSION OF ALABAMA V. ALABAMA GREAT SOUTHERN RAILROAD COMPANY, ET AL.

IN THE CITY COURT OF BIRMINGHAM.

This is an application by the Railroad Commission for a writ of mandamus requiring the defendant railroads to comply with the order of the Commission for the erection of a union depot in the City of Bessemer.

The case was decided against the State in the City Court of Birmingham and is now pending on appeal in the Supreme Court.

STATE OF ALABAMA V. A. C. ROGERS, ET AL.

IN THE CIRCUIT COURT OF ELMORE COUNTY.

This cause was begun by an application by the State to the Probate Court of Elmore County for the condemnation of certain lands for the use of the convict department and the State appealed, after the appraisal by the Commissioners appointed by the probate court, to the circuit court, and on the trial, the damages assessed by the commissioners were reduced by the jury in the circuit court.

STATE OF ALABAMA V. ALABAMA POWER COMPANY.

IN THE CITY COURT OF GADSDEN.

This was a bill filed by the Attorney General to test the right of power companies to dam navigable streams in this State, and the right of power companies to dam

navigable streams in this State was upheld by the Supreme Court.

OATES V. WHITEHEAD, TAX COLLECTOR.

IN THE CHANCERY COURT OF HENRY COUNTY.

This was a suit to enjoin the collection of certain taxes levied on an increased assessment made by the State Tax Commission, alleging that the increase was illegal for want of notice.

The Supreme Court decided that an injunction would not lie to restrain the collection of these taxes although no notice had been given.

SINGER SEWING MACHINE COMPANY V. ROBERT C. BRICKELL, ET AL.

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA.

This is a suit by the Singer Sewing Machine Company to enjoin the collection of the tax imposed upon the selling of sewing machines by Section 32 of the Revenue Bill of 1911, the complainant claiming that the business in which it was engaged was interstate commerce. The District Court held that the business of the complainant was not interstate commerce and that they were liable for the tax except as to the business done in Russell County, in which instance, the court held that the business there done was interstate commerce, and that they were not liable for the tax in that county.

STATE OF ALABAMA V. SUDIE SCHMIDT.

IN THE CITY COURT OF TALLADEGA.

This suit was brought to test the constitutionality of the limitation of twenty years in which suits could be brought for the recovery of sixteenth section lands which limitation was contained in the Codes prior to the Code of 1907.

Upon the result of this suit depends the title to a large body of school lands in this State.

This case is now pending in the Supreme Court.

STATE OF ALABAMA V. SCHOOL COMMISSIONERS OF MOBILE COUNTY, ET AL.

IN MOBILE CHANCERY COURT.

This is a bill in equity filed by the State against the School Commissioners of Mobile County and certain parties to whom they had granted the right to cut timber from sixteenth section lands, seeking to enjoin further trespasses upon such school lands, and to have an accounting of the timber already cut.

SCHOOL LANDS.

A number of suits have been begun against various parties for trespasses upon school lands in different parts of the State, and also a number of suits have been instituted to recover school lands, but it would be, it seems, inadvisable to deal with each case separately at the present time.

STATE OF ALABAMA V. P. W. JINWRIGHT.

Articles of impeachment against P. W. Jinwright, as Sheriff of Bullock County, were presented to the Supreme Court by this office by direction of the Governor, seeking to remove him as Sheriff of Bullock County because through his negligence one Aberdeen Johnson, who was confined in the jail of Bullock County, was taken therefrom and put to death by a mob.

A judgment was rendered by the Supreme Court ousting him from the office of Sheriff of Bullock County and disqualifying him to hold any office under the State during the time for which he had been elected sheriff.

STATE OF ALABAMA V. CHAL W. BRYCE.

Articles of impeachment against Chal W. Bryce as Sheriff of Cullman County were presented to the Supreme Court upon the report of the grand jury of Cullman County charging said Bryce with having bartered away his office. Before these proceedings could be heard, a judgment was rendered by the Probate Court of Cullman County in the contest instituted in that court by Christopher C. Scheuing against Chal W. Bryce declaring that said Christopher C. Scheuing had been elected to the office of Sheriff at the general election in November, 1910, whereupon the proceedings for the impeachment of said Bryce, as such sheriff, were dismissed and proceedings begun to oust said Scheuing from said office to which reference has been heretofore made.

GENERAL STATEMENT.

SHOWING CHARACTER AND RESULTS OF PROSECUTIONS IN EACH JUDICIAL CIRCUIT AND IN EACH CITY OR CRIMINAL COURT OR OTHER COURT HAVING A SEPARATE SOLICITOR FOR TWO YEARS ENDING SEPTEMBER 30, 1912.

CITY COURT OF ANDALUSIA.

L. H. Brassell, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	30	18	1	9	2	---	---	1	---	17	---	---
Adultery and fornication	6	1	1	3	1	---	---	1	---	---	---	---
Affray	3	2	---	---	1	---	---	---	---	2	---	---
Aiding escape	1	---	1	---	---	---	---	---	---	---	---	---
Assault	3	2	---	1	---	---	---	---	---	2	---	---
Assault and battery	56	27	8	20	1	---	---	1	---	26	---	---
Concealed weapons	45	20	8	14	3	---	---	2	---	18	---	---
Conspiracy	1	---	---	1	---	---	---	---	---	---	---	---
Cruelty to animals	1	1	---	---	---	---	---	---	---	1	---	---
Defamation	2	---	---	2	---	---	---	---	---	---	---	---
Destroying fence	1	---	---	---	1	---	---	---	---	---	---	---
Disturbing religious worship	2	1	1	---	---	---	---	---	---	1	---	---
Disturbing females	2	2	---	---	---	---	---	---	---	2	---	---
Escape	2	2	---	---	---	---	---	2	---	---	---	---
Enticing labor	1	---	---	1	---	---	---	---	---	---	---	---
Failing to repair public road	4	2	1	1	---	---	---	---	---	2	---	---
False pretense	12	6	2	4	---	---	---	---	---	6	---	---
Gaming	15	4	3	8	---	---	---	---	---	4	---	---
Injuring public road	1	1	---	---	---	---	---	---	---	1	---	---
Larceny, petit	9	3	1	4	1	---	---	---	---	3	---	---
Malicious mischief	4	---	1	2	1	---	---	---	---	---	---	---
Overseer, neglect of duty	2	---	1	1	---	---	---	---	---	---	---	---
Practicing dentistry without a license	3	2	---	1	---	---	---	---	---	2	---	---
Presenting gun	2	---	---	2	---	---	---	---	---	---	---	---
Public drunkenness	12	10	1	---	1	---	---	---	---	10	---	---
Selling choking mule	1	---	1	---	---	---	---	---	---	---	---	---

CITY COURT OF ANDALUSIA—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Selling mortgaged property	6	1	2	2	1	---	---	---	---	1	---	---
Trespass after warning	17	---	---	17	---	---	---	---	---	---	---	---
Unlawful injury to animal	1	---	---	---	1	---	---	---	---	---	---	---
Unlawfully killing dog	1	---	---	1	---	---	---	---	---	---	---	---
Vagrancy	13	10	---	3	---	---	---	1	---	9	---	---
Violating automobile law	1	---	1	---	---	---	---	---	---	---	---	---
Violating court contract	3	3	---	---	---	---	---	1	---	2	---	---
Violating game and fish law	13	8	---	5	---	---	---	---	---	8	---	---
Violating prohibition law	59	27	1	28	3	---	---	7	---	20	---	---
Violating revenue law	5	---	---	3	2	---	---	---	---	---	---	---
Violating written contract	7	1	---	6	---	---	---	---	---	1	---	---
Violating insurance law	2	---	---	1	1	---	---	---	---	---	---	---
Total	349	154	35	140	20	---	---	16	---	138	---	---

Percentage of convictions in cases disposed of, 44.

Predominant crime, Violating Prohibition Law.

CITY COURT OF ANNISTON.

W. C. Tunstall, Jr., Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abandonment	1		1									
Abusive letter	3	2	1					1		1		
Adultery and fornication	1	1								1		
Arson, second degree	2	2					2					
Assault	1	1						1				
Assault and Battery	4	3		1						3		
Assault and battery with weapon	6	5		1				1		4		
Assault, intent to murder	4		4									
Assault, intent to ravish	1	1					1					
Burglary	9	7	1	1			*5					
Burglary and grand larceny	1	1					1					
Burglary, grand larceny and receiving stolen goods	9	9					†8					
Concealed weapons	3	3						1		2		
Disturbing religious worship	1	1								1		
Disposing of mortgaged property	1	1								1		
Embezzlement	1		1									
Forgery, first degree	4	2	2				2					
Gaming on Sunday	4	3		1				1		2		
Injuring property	1	1								1		
Incest	1		1									
Larceny, grand	4	3	1				3					
Larceny, petit	4	3		1				1	1	1		
Larceny, grand, and receiving stolen goods	2			1	1							

CITY COURT OF ANNISTON—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Manslaughter, first degree	4	4	---	---	---	---	4	---	---	---	---	---
Murder, first degree	7	5	1	1	---	3	2	---	---	---	---	---
Murder, second degree	6	5	1	---	---	---	5	---	---	---	---	---
Presenting gun	1	1	---	---	---	---	---	---	---	1	---	---
Rape	1	1	---	---	---	---	1	---	---	---	---	---
Receiving stolen property	1	1	---	---	---	---	---	---	---	1	---	---
Selling mortgaged property	1	---	---	1	---	---	---	---	---	---	---	---
Violating game and fish law	1	---	1	---	---	---	---	---	---	---	---	---
Violating prohibition law	92	48	11	33	---	---	---	38	5	‡3	---	---
Violating pistol law	1	1	---	---	---	---	---	---	---	1	---	---
Total	183	115	26	41	1	3	34	44	6	23	---	---

Percentage of convictions in cases disposed of, 62.

Predominant crime, Violating Prohibition Law.

*Two to Reform School.

†One to Reform School.

‡Two sentences suspended.

BESSEMER CITY COURT.

Ben G. Perry, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	49	12	21	7	9					12		
Adultery and fornication	4	2	2					2				
Affray	2		2									
Assault	3		1	2								
Assault and battery	41	13	6	10	12					13		
Assault and battery with weapon	16	5	4	1	6			1		4		
Assault, intent to murder	4	1	1		2		1					
Bastardy	1		1									
Bribery	2		1		1							
Concealed weapons	25	8	5	3	9			1		7		
Decoying child	1		1									
Defacing public buildings	2		2									
Defamation	3			1	2							
Disturbing religious worship	5		3		2							
Disposing of mtg. property	2			1	1							
Embezzlement	3			1	2							
Extortion	1			1								
Failing to repair public road	1			1								
False pretense	1				1							
Gaming	21	6	1	11	3					6		
Larceny, grand	6	3			3		3					
Larceny, petit	9		4	3	2							
Malicious injury to animal	3	1			2					1		
Murder, first degree	1	1					1					
Obtaining board by fraud	4		1		3							
Operating slot machine	1	1								1		

BESSEMER CITY COURT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Perjury	1				1							
Peace proceedings	4	1	1	1	1					1		
Presenting gun	9		4	2	3							
Public drunkenness	3	1	2							1		
Resisting officer	3		1	1	1							
Selling diseased meat	1	1								1		
Shooting across public road	1	1								1		
Trespass after warning	3	1		2						1		
Vagrancy	10	1	5	4						1		
Violating Speed Law	1		1									
Violating game and fish law	4	1	3							1		
*Violating prohibition law	187	68	27	56	36			3		65		
Violating revenue law	4				4							
Violating Sunday law	3		2		1							
Total	445	128	102	108	107		5	7		116		

Percentage of convictions in cases disposed of, 29.

Predominant crime, Violation of Prohibition Law.

*Liquor nuisances abated on complaint of Solicitor in addition to Violation of Prohibition Law.

COUNTY COURT OF CLARKE.

F. E. Poole, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive letter	1	---	1	---	---	---	---	---	---	---	---	---
Abusive language	34	18	11	5	---	---	---	---	---	18	---	---
Adultery and fornication	9	5	2	2	---	---	---	---	---	5	---	---
Arson (third degree)	2	1	---	---	1	---	---	---	---	1	---	---
Assault	1	---	1	---	---	---	---	---	---	---	---	---
Assault and battery	20	8	6	5	1	---	---	---	---	8	---	---
Assault and battery with weapon	37	20	10	6	1	---	---	---	---	20	---	---
Carnal knowledge, girl under 12	1	---	---	1	---	---	---	---	---	---	---	---
Concealed weapons	39	21	7	11	---	---	---	2	---	19	---	---
Defamation	2	1	---	---	1	---	---	---	---	1	---	---
Defaulting road hand	6	---	3	3	---	---	---	---	---	1	---	---
Defaulting bail	11	1	9	1	---	---	---	---	---	---	---	---
Disturbing religious worship	4	2	1	1	---	---	---	---	---	2	---	---
Disturbing females	1	1	---	---	---	---	---	---	---	1	---	---
Failing to repair public road	2	---	1	1	---	---	---	---	---	---	---	---
False pretense	6	1	2	2	1	---	---	---	---	1	---	---
Forgery, third degree	1	---	1	---	---	---	---	---	---	---	---	---
Gaming	12	1	---	11	---	---	---	---	---	1	---	---
Killing hogs unlawfully	2	1	---	1	---	---	---	---	---	1	---	---
Larceny, petit	29	20	3	4	2	---	---	1	---	19	---	---
Obstructing public road	4	1	3	---	---	---	---	---	---	1	---	---
Pistol in possession off premises	1	1	---	---	---	---	---	---	---	1	---	---
Presenting gun	4	1	1	2	---	---	---	---	---	1	---	---
Public drunkenness	40	22	12	6	---	---	---	---	---	22	---	---

COUNTY COURT OF CLARKE—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Receiving stolen property	2	1	---	1	---	---	---	---	---	1	---	---
Removing mortgaged property	1	---	---	---	1	---	---	---	---	---	---	---
Removing property under lien	1	---	---	---	1	---	---	---	---	---	---	---
Trading choking horse	1	1	---	---	---	---	---	---	---	1	---	---
Shooting into dwelling	1	1	---	---	---	---	---	---	---	1	---	---
Selling mortgaged property	3	1	---	1	1	---	---	---	---	1	---	---
Shooting on Sunday	2	1	1	---	---	---	---	---	---	1	---	---
Trespass after warning	8	1	1	6	---	---	---	---	---	1	---	---
Unlawful injury to animal	3	2	1	---	---	---	---	---	---	2	---	---
Unlawfully using animal	1	---	1	---	---	---	---	---	---	---	---	---
Vagrancy	6	1	4	1	---	---	---	---	---	1	---	---
Violating game and fish law	2	2	---	---	---	---	---	---	---	2	---	---
Violating prohibition law	52	24	19	9	---	---	---	6	---	18	---	---
Violating revenue law	3	---	2	---	1	---	---	---	---	---	---	---
Violating written contract	1	---	1	---	---	---	---	---	---	---	---	---
Total	356	161	104	80	11	---	---	9	---	---	152	---

Percentage of convictions in cases disposed of, 45.

Predominant crime, Violating Prohibition Law.

CLAY COUNTY COURT.

Robert A. Gay, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	76	48	8	15	5	---	---	---	---	48	---	---
Adultery and fornication	8	5	1	2	---	---	---	---	---	5	---	---
Affray	7	4	1	1	1	---	---	---	---	4	---	---
Aiding escape	2	1	---	1	---	---	---	---	---	1	---	---
Arson, third degree	1	---	1	---	---	---	---	---	---	---	---	---
Assault and battery	28	19	3	5	1	---	---	---	---	19	---	---
Assault and battery with weapon	45	21	8	15	1	---	---	---	---	21	---	---
Assault, intent to murder	6	5	1	---	---	---	5	---	---	---	---	---
Bigamy	1	---	---	---	1	---	---	---	---	---	---	---
Burglary	8	7	---	1	---	---	7	---	---	---	---	---
Changing name unlawfully	1	---	---	1	---	---	---	---	---	---	---	---
Concealed weapons	50	26	9	13	2	---	---	---	---	26	---	---
Cruelty to animals	1	---	1	---	---	---	---	---	---	---	---	---
Decoying child	1	---	---	---	1	---	---	---	---	---	---	---
Defacing public buildings	1	1	---	---	---	---	---	---	---	1	---	---
Defamation	2	---	---	1	1	---	---	---	---	---	---	---
Destroying fence	1	---	1	---	---	---	---	---	---	---	---	---
Disturbing religious worship	16	7	1	4	4	---	---	---	---	7	---	---
Disposing of mortgaged property	6	4	2	---	---	---	3	---	---	1	---	---
Disturbing females	2	2	---	---	---	---	---	---	---	2	---	---
Disturbing public assembly	1	1	---	---	---	---	---	---	---	1	---	---
Escape	1	1	---	---	---	---	---	1	---	---	---	---
Failing to repair public road	6	5	---	1	---	---	---	---	---	5	---	---
False pretense	5	---	2	3	---	---	---	---	---	---	---	---
Forgery, first degree	3	1	---	2	---	---	1	---	---	---	---	---
False packing of cotton	1	1	---	---	---	---	---	---	---	1	---	---
Gaming	3	2	---	1	---	---	---	---	---	2	---	---

CLAY COUNTY COURT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Giving liquor to minor	3	---	2	---	1	---	---	---	---	---	---	---
Indecent exposure of person	2	2	---	---	---	---	---	---	---	2	---	---
Injuring telegraph wires	3	---	1	2	---	---	---	---	---	---	---	---
Injuring property	6	5	1	---	---	---	---	---	---	5	---	---
Larceny, grand	7	5	2	---	---	---	5	---	---	---	---	---
Larceny, petit	15	9	1	3	2	---	---	---	6	9	---	---
Malicious mischief	2	2	---	---	---	---	---	---	---	2	---	---
Malicious injury to animal	2	---	1	---	1	---	---	---	---	---	---	---
Manslaughter, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Murder, second degree	3	2	---	---	1	---	2	---	---	---	---	---
Perjury	5	---	1	1	3	---	---	---	---	---	---	---
Practicing medicine without a license	9	---	---	---	9	---	---	---	---	---	---	---
Presenting gun	5	1	---	3	1	---	---	---	---	1	---	---
Public drunkenness	52	31	5	14	2	---	---	---	---	31	---	---
Robbery	1	---	---	1	---	---	---	---	---	---	---	---
Seduction	2	---	---	2	---	---	---	---	---	---	---	---
Selling choking horse	2	---	2	---	---	---	---	---	---	---	---	---
Selling mortgaged property	3	1	2	---	---	---	---	---	---	1	---	---
Shooting across public road	2	2	---	---	---	---	---	---	---	2	---	---
Temporary use of property	1	---	---	1	---	---	---	---	---	---	---	---
Trespass after warning	7	---	2	4	1	---	---	---	---	---	---	---
Unlawful assembly	1	---	---	---	1	---	---	---	---	---	---	---
Vagrancy	3	---	---	3	---	---	---	---	---	---	---	---
Violating game and fish law	2	1	1	---	---	---	---	---	---	1	---	---
Violating prohibition law	68	23	14	27	4	---	---	3	2	20	---	---
Violating stock law	2	---	1	1	---	---	---	---	---	---	---	---
Violating written contract	3	2	---	---	1	---	---	1	---	1	---	---
Total	497	249	76	128	44	---	25	5	8	219	---	---

Percentage of convictions in cases disposed of, 50.

Predominant crime, Abusive Language.

GADSDEN CITY COURT.

L. B. Rainey, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	45	28	2	15	---	---	---	---	---	28	---	---
Adultery and fornication	9	1	2	4	2	---	---	1	---	---	---	---
Affray	5	2	---	3	---	---	---	---	---	2	---	---
Arson, first degree	2	---	2	---	---	---	---	---	---	---	---	---
Arson, second degree	1	---	---	1	---	---	---	---	---	---	---	---
Assault and battery	55	34	5	16	---	---	---	4	---	30	---	---
Assault and battery with weapon	21	16	3	2	---	---	---	8	---	8	---	---
Assault, intent to murder	15	6	2	7	---	---	---	6	---	---	---	---
Bigamy	3	2	---	1	---	---	---	2	---	---	---	---
Burglary	4	2	1	1	---	---	---	2	---	---	---	---
Burglary and grand larceny	13	7	2	4	---	---	---	7	---	---	---	---
Concealed weapons	38	23	5	10	---	---	---	---	---	23	---	---
Conspiracy	1	---	---	1	---	---	---	---	---	---	---	---
Cruelty to animals	8	3	---	5	---	---	---	---	---	3	---	---
Decoying child	3	---	3	---	---	---	---	---	---	---	---	---
Defacing public buildings	1	1	---	---	---	---	---	---	---	1	---	---
Defamation	3	---	---	3	---	---	---	---	---	---	---	---
Destroying fence	1	---	1	---	---	---	---	---	---	---	---	---
Disturbing religious worship	17	9	5	3	---	---	---	---	---	9	---	---
Disposing of mortgaged property	2	---	1	---	1	---	---	---	---	---	---	---
Embezzlement	6	3	1	2	---	---	---	2	---	1	---	---
Escape	3	3	---	---	---	---	---	3	---	---	---	---
False pretense	10	3	---	6	1	---	---	2	---	1	---	---
Forgery, second degree	1	1	---	---	---	---	---	1	---	---	---	---

GADSDEN CITY COURT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Forgery, third degree	1	1						1				
False impersonation	1	1								1		
Gaming	110	98	2	9	1					98		
Gaming on Sunday	6	6								6		
Giving liquor to minor	1	1								1		
Larceny, grand	21	7	2	11	1			7				
Larceny, petit	36	23	4	9				13	1	9		
Malicious mischief	5	3	1	1				1		2		
Manslaughter, first degree	2	2					2					
Murder, first degree	9	6	1	1	1	1	5					
Murder, second degree	3	2	1				2					
Obstructing public road	1		1									
Perjury	5	2	1	2			2					
Presenting gun	7	1	3	3						1		
Public drunkenness	37	33	1	2	1			1		32		
Receiving stolen property	1			1								
Removing property under lien	1		1									
Resisting officer	3			3								
Robbery	7		1	2	4							
Seduction	3		1	2								
Selling diseased meat	2	1		1						1		
Selling cocaine	1	1								1		
Selling choking horse	1			1								
Shooting into dwelling	1			1								
Selling cigarettes to minor	2	1	1							1		
Selling mortgaged property	1		1									
Shooting across public road	4	3		1						3		

GADSDEN CITY COURT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Trespass after warning	15	3	4	8	---	---	---	---	---	3	---	---
Unlawful injury to animal	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	33	25	7	1	---	---	---	13	---	12	---	---
Violating game and fish law	3	---	2	---	1	---	---	---	---	---	---	---
Violating prohibition law	132	62	20	45	5	---	---	41	1	20	---	---
Violating revenue law	2	---	---	2	---	---	---	---	---	---	---	---
Violating Sunday law	14	8	---	6	---	---	---	---	---	8	---	---
Violating stock law	3	1	1	1	---	---	---	---	---	1	---	---
Violating quarantine law	3	---	---	3	---	---	---	---	---	---	---	---
Total	745	436	92	199	18	1	24	102	2	306	---	---

Percentage of convictions in cases disposed of, 58½.

Predominant crime, Violating Prohibition Law.

*HALE COUNTY LAW AND EQUITY COURT.

Thos. E. Knight, Solicitor.
(*Created by Act approved Feb. 22, 1911.)

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	2	1	1	---	---	---	---	---	---	1	---	---
Adultery and fornication	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery	4	2	1	1	---	---	---	---	---	2	---	---
Assault and battery with weapon	15	14	---	---	1	---	---	4	---	12	---	---
Assault, intent to murder	3	3	---	---	---	---	2	1	---	---	---	---
Assault, intent to ravish	1	1	---	---	---	---	---	1	---	---	---	---
Burglary	4	4	---	---	---	---	---	1	3	---	---	---
Concealed weapons	15	9	---	4	2	---	---	4	---	6	---	---
Contempt	1	1	---	---	---	---	---	---	---	1	---	---
Disturbing religious worship	1	1	---	---	---	---	---	---	---	1	---	---
Failing to repair public road	2	1	---	1	---	---	---	---	---	1	---	---
Forgery, third degree	3	2	---	1	---	---	---	2	---	---	---	---
Gaming	35	30	1	4	---	---	---	---	---	30	---	---
Incest	1	1	---	---	---	---	1	---	---	---	---	---
Keeping sheep-killing dog	1	---	1	---	---	---	---	---	---	---	---	---
Larceny, grand	7	6	1	---	---	---	6	---	---	---	---	---
Larceny, petit	12	6	6	---	---	---	---	3	---	3	---	---
Murder, second degree	1	1	---	---	---	---	1	---	---	---	---	---
Resisting officer	1	1	---	---	---	---	---	1	---	---	---	---
Selling mortgaged property	6	1	1	3	1	---	---	---	---	1	---	---
Selling rent cotton	1	1	---	---	---	---	---	1	---	---	---	---
Trespass after warning	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	3	---	2	1	---	---	---	---	---	---	---	---
Violating speed law	2	1	---	---	1	---	---	---	---	1	---	---
Violating prohibition law	29	23	---	3	3	---	---	2	2	24	---	---
Total	152	112	14	18	8	---	11	22	2	85	---	---

Percentage of convictions in cases disposed of, 73 2-3.
Predominant crime, Gaming.

CIRCUIT COURT OF JACKSON COUNTY.

*Jno. F. Proctor, Solicitor.
(*Under local act County Solicitor prosecutes.)

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	11	9	1	1	---	---	---	---	---	9	---	---
Adultery and fornication	13	10	1	2	---	---	---	5	---	5	---	---
Arson, first degree	1	---	1	---	---	---	---	---	---	---	---	---
Assault and battery with weapon	19	15	2	2	---	---	---	3	---	12	---	---
Assault, intent to murder	5	1	---	3	1	---	---	1	---	---	---	---
Burglary	1	---	---	1	---	---	---	---	---	---	---	---
Burglary and grand larceny	3	3	---	---	---	---	3	---	---	---	---	---
Concealed weapons	20	11	2	6	1	---	---	4	---	7	---	---
Destroying fence	1	---	1	---	---	---	---	---	---	---	---	---
Disturbing religious worship	6	4	1	1	---	---	---	---	---	4	---	---
Disposing of mortgaged property	2	---	1	1	---	---	---	---	---	---	---	---
Doing business without license	1	1	---	---	---	---	---	---	---	1	---	---
Failing to repair public road	1	1	---	---	---	---	---	---	---	1	---	---
Gaming	8	5	---	3	---	---	---	1	---	4	---	---
Gaming on Sunday	4	---	2	2	---	---	---	---	---	---	---	---
Giving liquor to minor	1	---	---	1	---	---	---	---	---	---	---	---
Injuring animals	1	---	1	---	---	---	---	---	---	---	---	---
Killing hogs unlawfully	2	---	2	---	---	---	---	---	---	---	---	---
Larceny, grand	4	2	1	1	---	---	2	---	---	---	---	---
Larceny, petit	11	6	---	5	---	---	---	1	---	5	---	---
Lottery	8	4	1	3	---	---	---	---	---	4	---	---
Manslaughter, first degree	2	2	---	---	---	---	2	---	---	---	---	---

CIRCUIT COURT OF JACKSON COUNTY—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Presenting gun	3	1	1	1	---	---	---	---	---	1	---	---
Public drunkenness	1	1	---	---	---	---	---	---	---	1	---	---
Resisting officer	1	---	---	1	---	---	---	---	---	---	---	---
Retailing	44	17	5	21	1	---	---	1	---	16	---	---
Selling liquor to minor	4	1	1	1	1	---	---	---	---	1	---	---
Shooting across public road	2	---	2	---	---	---	---	---	---	---	---	---
Temporary use of property	2	2	---	---	---	---	---	---	---	2	---	---
Total	182	96	26	56	4	---	7	16	---	73	---	---

Percentage of convictions in cases disposed of, 53.

Predominant crime, Retailing.

JEFFERSON COUNTY CRIMINAL COURT.

H. P. Heflin, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abortion	1	---	---	1	---	---	---	---	---	---	---	---
Abusive language	226	53	31	112	30	---	---	10	13	30	---	---
Adultery and fornication	41	2	8	25	6	---	---	1	1	---	---	---
Affray	23	8	4	7	4	---	---	3	5	---	---	---
Allowing minor to play pool	5	1	1	2	1	---	---	---	---	1	---	---
Aiding escape	1	---	1	---	---	---	---	---	---	---	---	---
Allowing mad dog at large	1	---	---	1	---	---	---	---	---	---	---	---
Arson, first degree	4	1	1	2	---	---	1	---	---	---	---	---
Assault	4	3	---	---	1	---	---	2	---	1	---	---
Assault and battery	468	103	84	218	63	---	---	54	13	36	---	---
Assault and battery with weapon	318	72	62	144	40	---	---	35	17	20	---	---
Assault, intent to murder	102	43	15	33	11	---	24	17	1	1	---	---
Assault, intent to rob	1	1	---	---	---	---	---	1	---	---	---	---
Attempt at burglary	1	---	1	---	---	---	---	---	---	---	---	---
Attempt at larceny	1	---	---	1	---	---	---	---	---	---	---	---
Bribery	1	---	---	1	---	---	---	---	---	---	---	---
Boycotting	9	7	---	2	---	---	---	---	---	7	---	---
Bigamy	4	---	2	1	1	---	---	---	---	---	---	---
Bartering away office	1	---	1	---	---	---	---	---	---	---	---	---
Burglary	66	37	13	9	7	---	23	14	---	---	---	---
Burglary and grand larceny	138	84	23	26	5	---	38	45	1	---	---	---
Burglary, grand larceny and receiving stolen goods	1	---	1	---	---	---	---	---	---	---	---	---
Having burglar's tools in possession	1	1	---	---	---	---	---	1	---	---	---	---

JEFFERSON COUNTY CRIMINAL COURT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Carnal knowledge, girl under 12	3	---	2	1	---	---	---	---	---	---	---	---
Changing name unlawfully	8	2	3	2	1	---	---	---	2	---	---	---
Concealed weapons	208	76	27	86	19	---	---	45	14	17	---	---
Conspiracy	2	---	---	2	---	---	---	---	---	---	---	---
Cutting timber from land of another	1	---	---	1	---	---	---	---	---	---	---	---
Crime against nature	1	1	---	---	---	---	1	---	---	---	---	---
Cruelty to animals	8	1	4	1	2	---	---	---	1	---	---	---
Decoying child	7	1	2	4	---	---	---	1	---	---	---	---
Defacing public buildings	28	6	1	17	4	---	---	3	3	---	---	---
Disorderly conduct	1	---	---	1	---	---	---	---	---	---	---	---
Disturbing religious worship	15	1	3	8	3	---	---	---	---	1	---	---
Disposing of mortgaged property	2	---	---	2	---	---	---	---	---	---	---	---
Displaying nude pictures	2	---	2	---	---	---	---	---	---	---	---	---
Embezzlement	54	11	5	28	10	---	2	7	1	1	---	---
Extortion	1	---	1	---	---	---	---	---	---	---	---	---
Enticing minor	2	---	---	2	---	---	---	---	---	---	---	---
Escape	4	---	---	3	1	---	---	---	---	---	---	---
Failing to repair public road	2	1	---	1	---	---	---	---	1	---	---	---
False pretense	55	12	2	31	10	---	2	4	5	1	---	---
Fugitive from justice	1	---	---	1	---	---	---	---	---	---	---	---
Forgery, first degree	40	12	8	14	6	---	12	---	---	---	---	---
Forgery, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Gaming	1543	379	372	683	109	---	---	106	62	211	---	---
Gaming on Sunday	280	105	22	132	21	---	---	25	19	61	---	---
Giving away transfer	13	4	2	3	4	---	---	---	2	2	---	---

JEFFERSON COUNTY CRIMINAL COURT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Issuing worthless check	2	---	---	1	1	---	---	---	---	---	---	---
Impersonating officer	1	---	---	1	---	---	---	---	---	---	---	---
Illegal voting	1	---	---	1	---	---	---	---	---	---	---	---
Keeping gaming table	53	2	5	43	3	---	2	---	---	---	---	---
Larceny, grand	224	101	36	66	21	---	60	40	1	---	---	---
Larceny, petit	167	64	23	66	14	---	---	43	16	5	---	---
Larceny from the person	5	2	1	2	---	---	2	---	---	---	---	---
Malicious mischief	14	1	3	6	4	---	---	1	---	---	---	---
Malicious injury to animal	2	---	---	2	---	---	---	---	---	---	---	---
Manslaughter, first degree	18	16	1	1	---	---	16	---	---	---	---	---
Manslaughter, second degree	5	3	---	2	---	---	---	2	1	---	---	---
Miscegenation	2	---	---	---	2	---	---	---	---	---	---	---
Murder, first degree	93	22	31	24	16	5	17	---	---	---	---	---
Murder, second degree	12	10	---	2	---	---	10	---	---	---	---	---
Nuisance	1	---	---	1	---	---	---	---	---	---	---	---
Obstructing public road	2	---	---	1	1	---	---	---	---	---	---	---
Operating slot machine	22	---	---	17	5	---	---	---	---	---	---	---
Perjury	13	1	---	7	5	---	1	---	---	---	---	---
Pistol in possession off premises	5	1	---	2	2	---	---	---	---	1	---	---
Practicing medicine without a license	1	---	---	1	---	---	---	---	---	---	---	---
Presenting gun	67	12	16	29	10	---	---	5	1	6	---	---
Public drunkenness	77	25	5	43	4	---	---	5	3	17	---	---
Rape	4	2	1	1	---	---	2	---	---	---	---	---
Receiving stolen property	49	5	13	24	7	---	2	2	1	---	---	---
Removing mortgaged property	3	1	1	1	---	---	---	1	---	---	---	---
Resisting officer	5	---	1	2	2	---	---	---	---	---	---	---

JEFFERSON COUNTY CRIMINAL COURT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Robbery	44	12	9	13	10	---	12	---	---	---	---	---
Seduction	3	---	1	2	---	---	---	---	---	---	---	---
Selling diseased meat	1	---	1	---	---	---	---	---	---	---	---	---
Selling cocaine	2	1	---	1	---	---	---	1	---	---	---	---
Shooting into dwelling	1	---	1	---	---	---	---	---	---	---	---	---
Shooting across public road	9	---	1	5	3	---	---	---	---	---	---	---
Sodomy	2	---	1	1	---	---	---	---	---	---	---	---
Temporary use of property	4	3	1	---	---	---	---	1	---	2	---	---
Throwing missile at train	2	1	1	---	---	---	---	1	---	---	---	---
Trespass after warning	50	2	12	28	8	---	---	---	---	2	---	---
Unlawfully riding on train	12	7	---	5	---	---	---	1	4	2	---	---
Using firearms public place	3	1	---	---	2	---	---	---	1	---	---	---
Vagrancy	309	37	46	190	36	---	---	16	7	14	---	---
Violating automobile law	16	4	---	9	3	---	---	---	---	4	---	---
Violating game and fish law	5	1	---	4	---	---	---	---	---	1	---	---
Violating prohibition law	2076	121	133	1427	395	---	---	32	16	73	---	---
Violating revenue law	1630	29	158	1217	226	---	---	8	1	20	---	---
Violating Sunday law	139	29	25	66	19	---	---	5	6	18	---	---
Violating insurance law	10	---	---	2	8	---	---	---	---	---	---	---
Violating mining law	9	5	---	2	2	---	---	---	---	5	---	---
Violating section 7553	8	2	1	5	---	---	---	---	---	2	---	---
Violating section 6938	2	---	---	---	2	---	---	---	---	---	---	---
Violating section 7699	1	---	1	---	---	---	---	---	---	---	---	---
Violating section 6314	1	---	---	1	---	---	---	---	---	---	---	---
Total	8890	1552	1233	4933	1172	5	227	539	219	562	---	---

Percentage of convictions in cases disposed of, 17½.

Predominant crime, Violating Prohibition Law.

LEE COUNTY LAW AND EQUITY COURT.

Hon. C. A. L. Samford, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abortion	2	---	1	1	---	---	---	---	---	---	---	---
Abusive language	54	35	2	15	2	---	---	1	---	34	---	---
Adultery and fornication	12	6	4	2	---	---	---	---	---	6	---	---
Affray	2	1	---	1	---	---	---	---	---	1	---	---
Aiding escape	2	1	---	1	---	---	---	1	---	---	---	---
Allowing stock to run at large	1	---	---	1	---	---	---	---	---	---	---	---
Arson, third degree	1	1	---	---	---	---	---	1	---	---	---	---
Assault and battery	120	86	15	19	---	---	---	14	---	72	---	---
Assault, intent to murder	9	8	---	1	---	---	8	---	---	---	---	---
Assault, intent to ravish	4	1	3	---	---	---	1	---	---	---	---	---
Bastardy	1	---	1	---	---	---	---	---	---	---	---	---
Bigamy	1	1	---	---	---	---	---	1	---	---	---	---
Burglary	16	14	3	---	---	---	---	*12	---	---	---	---
Concealed weapons	27	20	1	5	1	---	---	7	---	13	---	---
Concealing stolen property	1	---	---	1	---	---	---	---	---	---	---	---
Cruelty to animals	2	1	1	---	---	---	---	---	---	1	---	---
Disturbing religious worship	10	5	---	5	---	---	---	1	---	4	---	---
Disposing of mortgaged property	3	2	---	1	---	---	---	1	---	1	---	---
Disturbing females	1	1	---	---	---	---	---	---	---	1	---	---
Embezzlement	10	8	1	1	---	---	---	1	---	7	---	---
Escape	4	4	---	---	---	---	---	4	---	---	---	---
Enticing labor	2	---	2	---	---	---	---	---	---	---	---	---
Failing to repair public road	36	19	2	15	---	---	---	10	---	11	---	---
False pretense	11	9	1	1	---	---	---	3	---	6	---	---

LEE COUNTY LAW AND EQUITY COURT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Forgery, second degree	3	2	1	---	---	---	2	---	---	---	---	---
Gaming on Sunday	36	32	---	4	---	---	---	1	---	31	---	---
Gaming in public place	1	1	---	---	---	---	---	1	---	---	---	---
Illegal voting	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	17	14	1	---	2	---	11	---	---	†1	---	---
Larceny, petit	47	35	8	4	---	---	---	20	---	‡20	---	---
Malicious injury to animal	1	1	---	---	---	---	---	---	---	1	---	---
Malicious injury to property	7	4	2	1	---	---	---	---	---	4	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	---	1	---	---	---
Murder, first degree	4	4	---	---	---	2	2	---	---	---	---	---
Murder, second degree	4	3	---	1	---	---	3	---	---	---	---	---
Obtaining money or goods under false pretense	3	3	---	---	---	---	---	---	---	3	---	---
Pistol in possession off premises	22	13	3	6	---	---	---	8	---	5	---	---
Practicing medicine without a license	1	---	---	1	---	---	---	---	---	---	---	---
Presenting gun	11	4	---	7	---	---	---	---	---	4	---	---
Public drunkenness	10	6	1	3	---	---	---	1	---	5	---	---
Resisting officer	1	---	---	1	---	---	---	---	---	---	---	---
Robbery	1	---	1	---	---	---	---	---	---	---	---	---
Selling cocaine	2	---	---	2	---	---	---	---	---	---	---	---
Selling cigarettes to minor	3	1	2	---	---	---	---	---	---	1	---	---
Selling mortgaged property	6	3	---	2	1	---	---	---	---	3	---	---
Shooting across public road	8	1	5	2	---	---	---	---	---	1	---	---
Temporary use of animal	3	2	1	---	---	---	---	---	---	2	---	---
Trespass after warning	24	6	---	18	---	---	---	2	---	4	---	---
Unlawfully riding on train	27	23	2	2	---	---	---	18	---	5	---	---

LEE COUNTY LAW AND EQUITY COURT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Vagrancy	23	18	4	1	---	---	---	16	---	2	---	---
Violating convict contract	1	1	---	---	---	---	---	1	---	---	---	---
Violating court contract	1	1	---	---	---	---	---	---	---	1	---	---
Violating election law	1	---	1	---	---	---	---	---	---	---	---	---
Violating game and fish law	7	4	1	2	---	---	---	---	---	4	---	---
Violating prohibition law	37	15	8	14	---	---	---	5	---	10	---	---
Violating revenue law	2	---	---	2	---	---	---	---	---	---	---	---
Violating Sunday law	31	29	---	2	---	---	---	---	---	29	---	---
Total	679	449	78	146	6	2	27	130	1	291	---	---

Percentage of convictions in cases disposed of, 66.

Predominant crime, Assault and Battery.

*One sent to Reform School.

†Two to Reformatory.

‡Five to Reformatory.

MADISON COUNTY LAW AND EQUITY COURT.

Zac. I. Drake, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive or obscene language	26	13	4	9	---	---	---	---	---	13	---	---
Adultery and fornication	5	---	1	4	---	---	---	---	---	---	---	---
Aiding escape	1	---	1	---	---	---	---	---	---	---	---	---
Abduction	1	---	---	1	---	---	---	---	---	---	---	---
Arson, second degree	1	---	1	---	---	---	---	---	---	---	---	---
Assault	12	5	2	4	1	---	---	---	---	5	---	---
Assault and battery	19	10	3	6	---	---	---	1	---	9	---	---
Assault and battery with weapon	6	2	1	3	---	---	---	---	---	2	---	---
Assault, intent to murder	6	3	2	1	---	---	---	3	---	---	---	---
Assault, intent to ravish	3	2	---	1	---	---	---	1	---	1	---	---
Assault, intent to rob	1	1	---	---	---	---	1	---	---	---	---	---
Attempt at poison	1	---	---	1	---	---	---	---	---	---	---	---
Bigamy	1	1	---	---	---	---	1	---	---	---	---	---
Burglary	7	3	1	3	---	---	3	---	---	---	---	---
Concealed weapons	24	9	6	8	1	---	---	1	---	8	---	---
Concealing stolen property	2	---	1	1	---	---	---	---	---	---	---	---
Contempt	1	1	---	---	---	---	---	---	---	1	---	---
Cruelty to animals	3	---	---	3	---	---	---	---	---	---	---	---
Decoying child	1	---	---	1	---	---	---	---	---	---	---	---
Defacing public buildings	4	2	1	1	---	---	---	1	---	1	---	---
Disturbing religious worship	3	1	---	1	1	---	---	---	---	1	---	---
Disposing of mortgaged property	7	---	3	4	---	---	---	---	---	---	---	---
Embezzlement	2	---	---	2	---	---	---	---	---	---	---	---
Failing to repair public road	2	1	1	---	---	---	---	---	---	1	---	---
False pretense	7	3	3	1	---	---	---	1	---	2	---	---
Forgery, first degree	1	---	---	1	---	---	---	---	---	---	---	---

MADISON COUNTY LAW AND EQUITY COURT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Gaming	15	7	1	7	---	---	---	2	---	5	---	---
Gaming on Sunday	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, petit	30	19	6	4	1	---	---	8	---	*9	---	---
Malicious mischief	3	2	---	1	---	---	---	---	---	2	---	---
Manslaughter, second degree	6	5	1	---	---	---	---	4	1	---	---	---
Miscegenation	3	---	2	1	---	---	---	---	---	---	---	---
Murder, second degree	8	4	4	---	---	---	4	---	---	---	---	---
Perjury	1	---	---	1	---	---	---	---	---	---	---	---
Presenting gun	1	---	1	---	---	---	---	---	---	---	---	---
Public drunkenness	25	14	3	6	2	---	---	---	---	14	---	---
Rape	1	---	---	1	---	---	---	---	---	---	---	---
Reckless driving	1	1	---	---	---	---	---	---	---	1	---	---
Resisting officer	2	---	1	1	---	---	---	---	---	---	---	---
Shooting across public road	6	4	---	2	---	---	---	---	---	4	---	---
Sending challenge	1	---	---	1	---	---	---	---	---	---	---	---
Trespass after warning	5	1	1	1	2	---	---	---	---	1	---	---
Unlawfully riding on train	5	4	1	---	---	---	---	2	---	2	---	---
Vagrancy	18	2	8	7	1	---	---	---	---	2	---	---
Violating speed law	4	2	---	2	---	---	---	---	---	2	---	---
Violating prohibition law	141	48	15	70	8	---	---	8	---	40	---	---
Violating revenue law	1	---	1	---	---	---	---	---	---	---	---	---
Violating Sunday law	9	1	3	5	---	---	---	---	---	1	---	---
Violating stock law	2	---	1	1	---	---	---	---	---	---	---	---
Violating written contract	16	---	---	10	6	---	---	---	---	---	---	---
Violating quarantine law	4	4	---	---	---	---	---	---	---	4	---	---
Violating tick law	1	1	---	---	---	---	---	---	---	1	---	---
Total	466	176	85	180	25	---	9	32	1	132	---	---

Percentage of convictions in cases disposed of, 37½.

Predominant crime, Violation of Prohibition Law.

*Two sentenced to Reform School.

MARION COUNTY COURT.

R. W. Quinn, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	10	6	---	4	---	---	---	---	---	6	---	---
Assault and battery	14	2	1	10	1	---	---	---	---	2	---	---
Assault and battery with weapon	9	5	1	3	---	---	---	---	---	5	---	---
Assault, intent to ravish	1	1	---	---	---	---	---	1	---	1	---	---
Concealed weapons	8	6	---	2	---	---	---	---	---	6	---	---
Disturbing religious worship	12	2	---	10	---	---	---	---	---	2	---	---
Disturbing females	3	2	---	1	---	---	---	---	---	2	---	---
Embezzlement	2	---	---	2	---	---	---	---	---	---	---	---
Failing to repair public road	2	1	---	1	---	---	---	---	---	1	---	---
Larceny, petit	5	2	---	3	---	---	---	---	2	2	---	---
Malicious mischief	2	2	---	---	---	---	---	---	---	2	---	---
Public drunkenness	14	7	1	6	---	---	---	---	---	7	---	---
Selling stolen property	2	---	---	2	---	---	---	---	---	---	---	---
Shooting into dwelling	4	1	---	3	---	---	---	---	---	1	---	---
Selling mortgaged property	1	---	---	1	---	---	---	---	---	---	---	---
Vagrancy	2	2	---	---	---	---	---	2	---	2	---	---
Violating game and fish law	3	---	---	3	---	---	---	---	---	---	---	---
Violating prohibition law	14	5	---	9	---	---	---	---	---	5	---	---
Total	111	44	3	63	1	---	---	3	2	44	---	---

Percentage of convictions in cases disposed of, 39½.

Predominant crimes, Assault and Battery, Public Drunkenness and Violating Prohibition Law.

MARENGO LAW AND EQUITY COURT.

B. G. Wilson, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to: Death	Penitentiary	Hard Labor	Jail	Fines paid or secured	Insane Asylum	Pardoned
Abusive language	2	---	2	---	---	---	---	---	---	---	---	---
Adultery and fornication	5	4	1	---	---	---	---	4	---	---	---	---
Aiding escape	1	---	1	---	---	---	---	---	---	---	---	---
Arson, second degree	1	1	---	---	---	---	1	---	---	---	---	---
Assault and battery	39	31	2	6	---	---	---	2	---	29	---	---
Assault and battery with weapon	2	2	---	---	---	---	---	---	---	2	---	---
Assault, intent to murder	4	1	---	1	2	---	---	1	---	---	---	---
Burglary	2	2	---	---	---	---	2	---	---	---	---	---
Carnal knowledge girl under 12	1	1	---	---	---	---	---	---	---	1	---	---
Concealed weapons	10	9	---	1	---	---	---	2	---	7	---	---
Disturbing religious worship	2	---	1	1	---	---	---	---	---	---	---	---
False pretense	1	---	1	---	---	---	---	---	---	---	---	---
Gaming	43	26	---	17	---	---	---	---	---	26	---	---
Larceny, grand	18	15	2	1	---	---	7	8	---	---	---	---
Larceny, petit	37	21	12	4	---	---	---	3	---	18	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Miscegenation	2	2	---	---	---	---	2	---	---	---	---	---
Murder, first degree	1	---	1	---	---	---	---	---	---	---	---	---
Murder, second degree	5	5	---	---	---	---	5	---	---	---	---	---
Perjury	1	---	---	1	---	---	---	---	---	---	---	---
Racing on public road	1	---	1	---	---	---	---	---	---	---	---	---
Reckless driving	2	---	---	2	---	---	---	---	---	---	---	---
Shooting into dwelling	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	6	2	2	2	---	---	---	---	---	2	---	---
Violating convict contract	2	---	---	2	---	---	---	---	---	---	---	---
Violating game and fish law	2	---	2	---	---	---	---	---	---	---	---	---
Violating prohibition law	57	24	13	20	---	---	---	2	---	22	---	---
Total	249	148	41	58	2	---	17	23	---	108	---	---

Percentage of convictions in cases disposed of, 59½.

Predominant crime, Violating Prohibition Law.

MOBILE CITY COURT.

N. R. Clarke, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	14	6	3	5	---	---	---	4	1	1	---	---
Adultery and fornication	3	2	---	1	---	---	---	1	1	---	---	---
Affray	3	2	1	---	---	---	---	---	1	1	---	---
Allowing minor to play pool	2	1	---	1	---	---	---	---	---	1	---	---
Abduction	1	1	---	---	---	---	1	---	---	---	---	---
Arson, second degree	1	---	---	1	---	---	---	---	---	---	---	---
Assault and battery	46	32	6	6	2	---	---	15	4	13	---	---
Assault and battery with weapon	29	21	7	1	---	---	---	10	5	6	---	---
Assault, intent to murder	16	7	4	4	1	---	6	1	---	---	---	---
Assault, intent to ravish	2	2	---	---	---	---	2	---	---	---	---	---
Betting at cards	2	2	---	---	---	---	---	---	---	2	---	---
Bigamy	1	---	---	---	1	---	---	---	---	---	---	---
Burglary	39	33	3	3	---	---	25	8	---	---	---	---
Burglary, and having burglar's tools	1	1	---	---	---	---	---	1	---	---	---	---
Carnal knowledge, girl under 12	2	---	---	2	---	---	---	---	---	---	---	---
Concealed weapons	15	7	4	4	---	---	---	4	1	2	---	---
Disturbing religious worship	1	1	---	---	---	---	---	---	---	1	---	---
Embezzlement	13	4	2	7	---	---	1	2	1	---	---	---
Failing to repair public road	3	1	---	2	---	---	---	---	---	1	---	---
False pretense	5	1	---	3	1	---	1	---	---	---	---	---
Forgery, first degree	2	1	1	---	---	---	1	---	---	---	---	---
Gaming	1	---	1	---	---	---	---	---	---	---	---	---
Gaming in public place	1	1	---	---	---	---	---	---	---	1	---	---
Keeping gaming table	8	---	2	6	---	---	---	---	---	---	---	---

MOBILE CITY COURT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Kidnapping	2	2	---	---	---	---	1	1	---	---	---	---
Larceny, grand	93	66	16	7	4	---	35	31	---	---	---	---
Larceny, petit	41	32	6	2	1	---	---	30	2	1	---	---
Lottery	2	---	---	1	1	---	---	---	---	---	---	---
Malicious mischief	3	2	1	---	---	---	---	---	1	1	---	---
Manslaughter, second degree	7	6	---	1	---	---	---	4	2	---	---	---
Miscegenation	3	---	3	---	---	---	---	---	---	---	---	---
Murder, first degree	6	2	---	2	2	1	1	---	---	---	---	---
Murder, second degree	6	4	2	---	---	---	4	---	---	---	---	---
Operating slot machine	4	3	---	1	---	---	---	---	---	3	---	---
Public drunkennness	4	2	---	2	---	---	---	1	---	1	---	---
Rape	2	---	---	---	2	---	---	---	---	---	---	---
Receiving stolen property	5	1	1	2	1	---	---	1	---	---	---	---
Removing property under lien	1	---	---	1	---	---	---	---	---	---	---	---
Robbery	5	3	---	1	1	---	3	---	---	---	---	---
Resisting process	1	---	1	---	---	---	---	---	---	---	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Selling personal property	1	---	---	1	---	---	---	---	---	---	---	---
Selling cocaine	5	---	2	2	1	---	---	---	---	---	---	---
Selling liquor to minor	1	---	---	1	---	---	---	---	---	---	---	---
Selling indecent paper	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	2	---	1	---	1	---	---	---	---	---	---	---
Shooting into passenger train	1	1	---	---	---	---	---	1	---	---	---	---
Sodomy	1	1	---	---	---	---	---	1	---	---	---	---
Trespass after warning	1	---	1	---	---	---	---	---	---	---	---	---
Unlawfully riding on train	1	1	---	---	---	---	---	1	---	---	---	---

MOBILE CITY COURT—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Unlawfully connecting gas pipe	1	1	---	---	---	---	---	---	---	---	---	---
Vagrancy	32	10	3	19	---	---	---	5	4	1	---	---
Violating game and fish law	10	1	1	7	---	---	---	---	---	1	---	---
Violating prohibition law	125	55	16	52	2	---	---	4	2	49	---	---
Violating revenue law	1	---	---	1	---	---	---	---	---	---	---	---
Violating Sunday law	4	1	3	---	---	---	---	---	---	1	---	---
Violating stock law	3	---	3	---	---	---	---	---	---	---	---	---
Violating oyster law	9	1	2	6	---	---	---	---	---	1	---	---
Total	600	325	96	158	21	1	85	126	25	89	---	---

Percentage of convictions in cases disposed of, 56.

Predominant crime, Violation of Prohibition Law.

*CITY COURT OF MONTGOMERY.

W. T. Seibles, Solicitor.

(* No report July term, 1911.)

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abandonment	2	---	---	2	---	---	---	---	---	---	---	---
Abusive language	5	4	1	---	---	---	---	3	---	1	---	---
Affray	2	---	---	1	1	---	---	---	---	---	---	---
Arson, first degree	1	---	1	---	---	---	---	---	---	---	---	---
Arson, second degree	1	---	1	---	---	---	---	---	---	---	---	---
Assault and battery	39	32	4	2	1	---	---	16	---	16	---	---
Assault and battery with weapon	10	10	---	---	---	---	---	1	---	9	---	---
Assault, intent to murder	24	8	7	7	2	---	5	3	---	---	---	---
Assault, intent to rob	2	2	---	---	---	---	2	---	---	---	---	---
Buying seed cotton	4	1	1	2	---	---	---	---	---	1	---	---
Bastardy	4	---	---	3	1	---	---	---	---	---	---	---
Burglary	48	41	5	2	---	---	37	4	---	---	---	---
Burglary and grand larceny	11	7	---	4	---	---	6	1	---	---	---	---
Concealed weapons	74	49	14	11	---	---	---	26	---	23	---	---
Cruelty to animals	2	2	---	---	---	---	---	1	---	1	---	---
Decoying child	1	---	1	---	---	---	---	---	---	---	---	---
Disposing of mortgaged property	1	---	---	1	---	---	---	---	---	---	---	---
Embezzlement	8	5	1	2	---	---	2	3	---	---	---	---
Extortion	4	---	---	4	---	---	---	---	---	---	---	---
Enticing labor	2	---	1	1	---	---	---	---	---	---	---	---
Failing to repair public road	1	---	---	1	---	---	---	---	---	---	---	---
Forgery, first degree	2	1	---	1	---	---	1	---	---	---	---	---
Forgery, second degree	12	4	1	5	2	---	3	1	---	---	---	---
Gaming	18	6	6	5	1	---	---	---	---	6	---	---

CITY COURT OF MONTGOMERY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Incest	1	1	---	---	---	---	1	---	---	---	---	---
Keeping gaming table	5	1	3	1	---	---	1	---	---	---	---	---
Keeping house of prostitution	1	---	---	---	1	---	---	---	---	---	---	---
Larceny, grand	92	62	15	15	---	---	52	10	---	---	---	---
Larceny, petit	27	23	1	2	1	---	---	8	---	15	---	---
Malicious mischief	1	---	---	---	1	---	---	---	---	---	---	---
Manslaughter, first degree	11	10	---	1	---	---	10	---	---	---	---	---
Manslaughter, second degree	4	4	---	---	---	---	---	2	---	2	---	---
Miscegenation	2	2	---	---	---	---	2	---	---	---	---	---
Murder, first degree	23	14	4	5	---	7	7	---	---	---	---	---
Murder, second degree	4	4	---	---	---	---	4	---	---	---	---	---
Obstructing railroad	1	---	---	1	---	---	---	---	---	---	---	---
Perjury	3	2	1	---	---	---	2	---	---	---	---	---
Prize fighting	4	---	---	4	---	---	---	---	---	---	---	---
Presenting gun	5	1	2	2	---	---	---	---	---	1	---	---
Receiving stolen property	6	2	---	4	---	---	---	---	---	2	---	---
Reckless driving	2	---	1	1	---	---	---	---	---	---	---	---
Removing mortgaged property	11	3	3	5	---	---	---	---	---	3	---	---
Resisting officer	1	---	---	1	---	---	---	---	---	---	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Shooting across public road	5	1	1	3	---	---	---	---	---	1	---	---
Trespass after warning	3	3	---	---	---	---	---	1	---	2	---	---
Unlawfully riding on train	5	5	---	---	---	---	---	4	---	1	---	---
Vagrancy	14	6	1	7	---	---	---	3	---	3	---	---
Violating automobile law	1	1	---	---	---	---	---	---	---	1	---	---
Violating speed law	3	1	---	2	---	---	---	1	---	---	---	---

CITY COURT OF MONTGOMERY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Violating game and fish law	12	7	---	5	---	---	---	---	---	7	---	---
Violating revenue law	1	---	---	1	---	---	---	---	---	---	---	---
Violating Sunday law	3	1	1	1	---	---	---	---	---	1	---	---
Violating written contract	10	5	1	4	---	---	---	2	---	3	---	---
Violating insurance law	2	---	---	2	---	---	---	---	---	---	---	---
Total	542	331	78	122	11	7	135	90	---	99	---	---

Percentage of convictions disposed of, 61.

Predominant crime, Grand Larceny.

* MONROE LAW AND EQUITY COURT.

M. R. Sowell, Solicitor.

(* Created by Legislature of 1911.)

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	14	4	4	6	---	---	---	1	---	3	---	---
Adultery and fornication	8	6	1	1	---	---	---	2	---	4	---	---
Aiding escape	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery	4	2	---	2	---	---	---	1	---	1	---	---
Assault and battery with weapon	26	18	4	4	---	---	---	4	---	14	---	---
Assault, intent to murder	2	---	---	1	1	---	---	---	---	---	---	---
Burglary	2	1	1	---	---	---	---	1	---	---	---	---
Concealed weapons	22	9	4	7	2	---	---	1	---	8	---	---
Disturbing religious worship	3	1	2	---	---	---	---	---	---	1	---	---
Embezzlement	1	---	---	1	---	---	---	---	---	---	---	---
Failing to repair public road	3	---	2	1	---	---	---	---	---	---	---	---
False pretense	2	---	1	1	---	---	---	---	---	---	---	---
Gaming	2	---	---	2	---	---	---	---	---	---	---	---
Larceny, grand	1	---	1	---	---	---	---	---	---	---	---	---
Larceny, grand, and receiving stolen goods	7	2	---	5	---	---	---	---	2	2	---	---
Manslaughter, first degree	3	3	---	---	---	---	3	---	---	---	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	---	1	1	---	---
Murder, first degree	1	1	---	---	---	1	---	---	---	---	---	---
Murder, second degree	1	---	---	1	---	---	---	---	---	---	---	---
Obstructing public road	4	1	---	3	---	---	---	---	---	1	---	---
Overseer, neglect of duty	1	---	1	---	---	---	---	---	---	---	---	---
Public drunkenness	13	4	3	4	2	---	---	---	---	4	---	---
Selling mortgaged property	10	2	5	3	---	---	---	2	---	1	---	---
Shooting across public road	1	---	1	---	---	---	---	---	---	---	---	---

MONROE LAW AND EQUITY COURT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Trespass after warning	2	2	---	---	---	---	---	---	---	2	---	---
Trespassing on public property	1	1	---	---	---	---	---	1	---	---	---	---
Violating court contract	1	---	1	---	---	---	---	---	---	---	---	---
Violating game and fish law	1	1	---	---	---	---	---	---	---	1	---	---
Violating prohibition law	41	15	10	8	8	---	---	---	---	15	---	---
Violating Sunday law	7	4	1	2	---	---	---	---	---	4	---	---
Violating forestry law	1	---	---	1	---	---	---	---	---	---	---	---
Total	167	79	42	33	13	1	3	13	3	63	---	---

Percentage of convictions disposed of, 42 per cent.

Predominant crime, Violating Prohibition Law.

MORGAN COUNTY LAW AND EQUITY COURT.

Samuel Blackwell, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abandonment	3	1	1	1	---	---	---	---	---	1	---	---
Abusive language	28	10	1	14	3	---	---	3	---	7	---	---
Adultery and fornication	10	2	1	6	1	---	---	---	---	2	---	---
Affray	2	2	---	---	---	---	---	2	---	---	---	---
Aiding escape	1	---	---	1	---	---	---	---	---	---	---	---
Assault	4	---	1	3	---	---	---	---	---	---	---	---
Assault and battery	18	7	5	4	2	---	---	2	---	6	---	---
Assault and battery with weapon	20	9	3	5	3	---	---	4	---	5	---	---
Assault, intent to murder	4	3	1	---	---	---	2	1	---	---	---	---
Embezzlement	2	1	1	---	---	---	---	---	---	1	---	---
False pretense	2	---	1	---	1	---	---	---	---	---	---	---
Forgery, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Gaming	14	2	2	9	1	---	---	1	---	2	---	---
Larceny, grand	9	4	4	---	1	---	3	1	---	---	---	---
Larceny, petit	13	7	3	1	2	---	---	3	---	4	---	---
Murder, first degree	3	---	2	1	---	---	---	---	---	---	---	---
Presenting gun	3	---	---	2	1	---	---	---	---	---	---	---
Public drunkenness	20	12	1	7	---	---	---	2	---	10	---	---
Receiving stolen property	3	1	2	---	---	---	---	1	---	---	---	---
Rescuing prisoner	1	---	---	1	---	---	---	---	---	---	---	---
Resisting officer	2	---	---	1	1	---	---	---	---	---	---	---
Robbery	4	1	2	1	---	---	1	---	---	---	---	---
Shooting across public road	1	---	---	1	---	---	---	---	---	---	---	---
Throwing missile at train	1	1	---	---	---	---	1	---	---	---	---	---
Trespass after warning	9	1	1	3	4	---	---	---	---	1	---	---
Unlawfully using animal	2	---	1	1	---	---	---	---	---	---	---	---
Violating prohibition law	189	16	22	145	6	---	---	3	2	12	---	---
Total	407	97	57	224	29	---	12	27	5	56	---	---

Percentage of convictions in cases disposed of, 23 2 3 per cent.

Predominant crime, Violating Prohibition Law.

PIKE COUNTY CRIMINAL COURT.

A. G. Seay, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	37	19	4	14	---	---	---	2	---	17	---	---
Adultery and fornication	7	2	1	4	---	---	---	1	---	1	---	---
Affray	4	1	2	1	---	---	---	---	---	1	---	---
Aiding escape	4	4	---	---	---	---	---	---	---	4	---	---
Assault	2	1	---	1	---	---	---	1	---	---	---	---
Assault and battery	34	19	7	7	1	---	---	3	---	16	---	---
Concealed weapons	71	35	10	23	3	---	---	9	---	26	---	---
Conspiracy	1	---	---	1	---	---	---	---	---	---	---	---
Cruelty to animals	2	---	1	---	1	---	---	---	---	---	---	---
Defacing public buildings	2	---	---	1	1	---	---	---	---	---	---	---
Defamation	4	---	1	2	1	---	---	---	---	---	---	---
Destroying fence	2	---	2	---	---	---	---	---	---	---	---	---
Disturbing religious worship	2	1	---	1	---	---	---	---	---	1	---	---
Embezzlement	2	1	1	---	---	---	---	---	---	1	---	---
Escape	1	1	---	---	---	---	---	1	---	---	---	---
Enticing labor	5	1	2	2	---	---	---	---	---	1	---	---
Failing to repair public road	52	18	14	20	---	---	---	---	---	18	---	---
False pretense	15	4	1	6	4	---	---	---	---	4	---	---
Gaming	18	9	1	8	---	---	---	1	---	8	---	---
Indecent exposure of person	3	3	---	---	---	---	---	1	---	2	---	---
Injuring property	2	---	2	---	---	---	---	---	---	---	---	---
Larceny, petit	15	6	5	3	1	---	---	---	1	6	---	---
Malicious mischief	1	---	1	---	---	---	---	---	---	---	---	---
Practicing dentistry without a license	1	1	---	---	---	---	---	---	---	1	---	---
Practicing medicine without a license	3	1	---	2	---	---	---	---	---	1	---	---

PIKE COUNTY CRIMINAL COURT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Presenting gun	4	3	---	1	---	---	---	3	---	---	---	---
Public drunkenness	8	5	---	3	---	---	---	1	---	4	---	---
Removing property under lien	3	---	1	---	2	---	---	---	---	---	---	---
Selling diseased meat	2	---	1	1	---	---	---	---	---	---	---	---
Selling mortgaged property	5	---	1	3	1	---	---	---	---	---	---	---
Shooting across public road	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	14	---	1	12	1	---	---	---	---	---	---	---
Unlawfully killing dog	2	1	---	1	---	---	---	---	---	1	---	---
Vagrancy	3	2	---	1	---	---	---	1	---	1	---	---
Violating automobile law	1	---	---	1	---	---	---	---	---	---	---	---
Violating convict contract	4	3	1	---	---	---	---	---	---	3	---	---
Violating game and fish law	2	2	---	---	---	---	---	---	---	2	---	---
Violating prohibition law	18	3	4	11	---	---	---	---	---	3	---	---
Violating revenue law	1	1	---	---	---	---	---	---	---	1	---	---
Violating written contract	11	8	---	2	1	---	---	1	---	7	---	---
Total	371	156	64	132	19	---	---	25	1	131	---	---

Percentage of convictions in cases disposed of, 42 per cent.
Predominant crime, Concealed Weapons.

CITY COURT OF SELMA.

J. F. Thompson, Solicitor. R. H. Mangum, Deputy Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	1	---	---	1	---	---	---	---	---	---	---	---
Assault and battery	5	3	---	2	---	---	---	1	---	2	---	---
* Assault and battery with weapon	11	11	---	---	---	---	---	5	---	5	---	---
Assault, intent to murder	5	4	1	---	---	---	3	---	---	---	1	---
Bastardy	1	---	---	---	1	---	---	---	---	---	---	---
Bigamy	1	---	---	1	---	---	---	---	---	---	---	---
Burglary	32	21	2	6	3	---	---	21	---	---	---	---
Concealed weapons	5	3	1	1	---	---	---	1	---	2	---	---
Embezzlement	3	3	---	---	---	---	---	2	---	1	---	---
Escape	1	1	---	---	---	---	---	1	---	---	---	---
Failing to repair public road	1	---	---	1	---	---	---	---	---	---	---	---
False pretense	1	---	---	1	---	---	---	---	---	---	---	---
Forgery, first degree	2	---	---	---	2	---	---	---	---	---	---	---
Gaming	4	4	---	---	---	---	---	---	---	4	---	---
Larceny, grand	8	6	---	2	---	---	---	6	---	---	---	---
Larceny, petit	7	5	---	2	---	---	---	4	---	1	---	---
Manslaughter, second degree	2	2	---	---	---	---	---	2	---	---	---	---
Murder, first degree	2	1	---	1	---	---	1	---	---	---	---	---
Murder, second degree	2	2	---	---	---	---	2	---	---	---	---	---
Presenting gun	1	1	---	---	---	---	---	---	---	1	---	---
Receiving stolen property	8	2	1	3	2	---	---	1	---	1	---	---
Removing mortgaged property	1	---	1	---	---	---	---	---	---	---	---	---
Risisting officer	1	1	---	---	---	---	---	1	---	---	---	---
Sending abusive letter	1	1	---	---	---	---	---	1	---	---	---	---
Selling mortgaged property	6	4	---	2	---	---	---	3	---	1	---	---
Shooting across public road	2	2	---	---	---	---	---	---	---	2	---	---
Vagrancy	2	1	---	1	---	---	---	1	---	---	---	---
Violating prohibition law	47	18	---	16	13	---	---	15	---	3	---	---
Total	163	96	6	40	21	---	6	65	---	23	1	---

Percentage of convictions in cases disposed of, 57 2-3 per cent.

Predominant crime, Violating Prohibition Law.

SHELBY COUNTY COURT.

Jas. J. Haynes, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abandonment	2	---	---	2	---	---	---	---	---	---	---	---
Abusive language	27	20	2	5	---	---	---	1	---	19	---	---
Adultery and fornication	11	6	1	4	---	---	---	3	---	4	---	---
Affray	1	1	---	---	---	---	---	---	---	1	---	---
Allowing minor to play pool	2	1	---	1	---	---	---	---	---	1	---	---
Assault and battery	5	3	1	1	---	---	---	---	---	3	---	---
Assault and battery with weapon	35	20	2	13	---	---	---	1	---	19	---	---
Assault, intent to murder	3	3	---	---	---	---	3	---	---	---	---	---
Assault, intent to ravish	3	3	---	---	---	---	3	---	---	---	---	---
Betting at cards	7	6	1	---	---	---	---	2	---	4	---	---
* Burglary	7	6	---	1	---	---	4	1	---	---	---	---
Burglary and grand larceny	2	1	---	1	---	---	1	---	---	---	---	---
Concealed weapons	23	13	1	9	---	---	---	2	---	11	---	---
Decoying child	2	---	2	---	---	---	---	---	---	---	---	---
Defamation	10	4	2	4	---	---	---	---	---	4	---	---
Destroying fence	1	---	---	---	1	---	---	---	---	---	---	---
Disturbing religious worship	6	5	---	1	---	---	---	1	---	4	---	---
False pretense	1	1	---	---	---	---	---	---	---	1	---	---
Gaming	9	5	1	3	---	---	---	---	---	5	---	---
Illegal voting	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	5	4	---	1	---	---	3	1	---	---	---	---
Larceny, petit	15	12	1	2	---	---	---	6	2	8	---	---
Malicious mischief	1	---	1	---	---	---	---	---	---	---	---	---
Murder, second degree	3	3	---	---	---	---	3	---	---	---	---	---
Obstructing public road	1	---	---	1	---	---	---	---	---	---	---	---
Presenting gun	4	3	---	1	---	---	---	1	---	2	---	---

SHELBY COUNTY COURT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Public drunkenness	11	5	1	5	---	---	---	---	---	5	---	---
Receiving stolen property	1	---	---	1	---	---	---	---	---	---	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Shooting into dwelling	1	1	---	---	---	---	---	---	---	1	---	---
Shooting across public road	1	---	---	1	---	---	---	---	---	---	---	---
Trespass after warning	5	2	---	1	2	---	---	---	---	2	---	---
Tampering with railroad track	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	3	2	---	1	---	---	---	---	---	2	---	---
Violating prohibition law	59	31	---	28	---	---	---	11	---	20	---	---
Violating revenue law	4	1	3	---	---	---	---	---	---	1	---	---
Violating written contract	1	---	1	---	---	---	---	---	---	---	---	---
Total	275	163	20	89	3	---	17	30	2	118	---	---

Percentage of convictions in cases disposed of, 59 1-3 per cent.

Predominant crime, Violating Prohibition Law.

* One sent to Reform School.

SUMTER COUNTY COURT.

Jas. A. Mitchell, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	6	4	---	1	1	---	---	---	---	4	---	---
Adultery and fornication	2	---	---	2	---	---	---	---	---	---	---	---
Abduction	1	---	1	---	---	---	---	---	---	---	---	---
Arson, third degree	1	---	---	1	---	---	---	---	---	---	---	---
Assault and battery	7	6	1	---	---	---	---	---	---	6	---	---
Assault and battery with weapon	28	26	---	2	---	---	---	3	---	23	---	---
Betting on election	1	1	---	---	---	---	---	---	---	1	---	---
Concealed weapons	26	18	3	5	---	---	---	7	---	11	---	---
Enticing minor	1	---	1	---	---	---	---	---	---	---	---	---
Escape	2	2	---	---	---	---	---	2	---	---	---	---
Gaming	5	5	---	---	---	---	---	---	---	5	---	---
Larceny, petit	5	2	2	1	---	---	---	1	---	1	---	---
Presenting gun	2	2	---	---	---	---	---	---	---	2	---	---
Public drunkenness	7	6	---	1	---	---	---	1	---	5	---	---
Receiving stolen property	1	---	1	---	---	---	---	---	---	---	---	---
Removing mortgaged property	1	1	---	---	---	---	---	---	---	1	---	---
Resisting officer	1	1	---	---	---	---	---	1	---	---	---	---
Temporary use of animal	5	5	---	---	---	---	---	---	---	5	---	---
Trespass after warning	2	1	---	1	---	---	---	---	---	1	---	---
Unlawfully riding on train	4	4	---	---	---	---	---	1	---	3	---	---
Unlawfully killing dog	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	9	6	1	2	---	---	---	1	---	5	---	---
Violating game and fish law	4	4	---	---	---	---	---	---	---	4	---	---
Violating prohibition law	95	69	5	11	10	---	---	12	---	57	---	---
Violating quarantine law	39	21	2	15	1	---	---	---	---	21	---	---
Total	256	185	17	42	12	---	---	29	---	156	---	---

Percentage of convictions in cases disposed of, 72 per cent.
Predominant crime, Violating Prohibition Law.

TALLADEGA CITY COURT.

Marion H. Sims, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	33	26	---	7	---	---	---	---	---	26	---	---
Adultery and fornication	6	4	---	2	---	---	---	---	---	4	---	---
Affray	2	2	---	---	---	---	---	---	---	2	---	---
Assault and battery	13	7	1	5	---	---	---	---	---	7	---	---
Assault and battery with weapon	80	60	4	16	---	---	---	6	6	48	---	---
Assault, intent to murder	3	1	---	1	1	---	---	1	---	---	---	---
Bigamy	4	2	---	2	---	---	2	---	---	---	---	---
Concealed weapons	49	29	---	20	---	---	---	4	---	25	---	---
Cruelty to animals	6	1	---	5	---	---	---	---	---	1	---	---
Disturbing religious worship	10	8	1	1	---	---	---	2	---	6	---	---
Embezzlement	1	1	---	---	---	---	1	---	---	---	---	---
Forgery, second degree	1	1	---	---	---	---	1	---	---	---	---	---
Gaming	11	5	---	5	1	---	---	1	---	4	---	---
Injuring telegraph wires	1	1	---	---	---	---	---	---	---	1	---	---
Larceny, grand	36	27	3	6	---	---	27	---	---	---	---	---
Larceny, petit	33	26	4	3	---	---	---	8	18	---	---	---
Malicious mischief	2	2	---	---	---	---	---	---	---	2	---	---
Manslaughter, first degree	5	5	---	---	---	---	5	---	---	---	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Murder, first degree	1	---	1	---	---	---	---	---	---	---	---	---
Murder, second degree	11	11	---	---	---	---	11	---	---	---	---	---
Obtaining money or goods under false pretense	3	2	1	---	---	---	2	---	---	---	---	---
Obscene literature	2	2	---	---	---	---	---	---	---	2	---	---
Perjury	3	---	---	3	---	---	---	---	---	---	---	---
Peddling without license	1	1	---	---	---	---	---	---	---	1	---	---

TALLADEGA CITY COURT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Practicing medicine without a license	1	---	---	1	---	---	---	---	---	---	---	---
Public drunkenness	47	33	1	12	1	---	---	2	---	31	---	---
Rape	1	1	---	---	---	---	1	---	---	---	---	---
Seduction	4	1	---	3	---	---	1	---	---	---	---	---
Shooting into dwelling	1	1	---	---	---	---	---	---	---	1	---	---
Selling choking mule	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	1	---	---	1	---	---	---	---	---	---	---	---
Shooting across public road	6	5	1	---	---	---	---	---	---	5	---	---
Trespass after warning	7	1	3	3	---	---	---	---	---	1	---	---
Vagrancy	16	8	1	7	---	---	---	---	---	8	---	---
Violating automobile law	1	1	---	---	---	---	---	---	---	1	---	---
Violating game and fish law	9	1	---	8	---	---	---	---	---	1	---	---
Violating Sunday law	1	1	---	---	---	---	---	---	---	1	---	---
Total	414	278	21	112	3	---	51	25	24	178	---	---

Percentage of convictions in cases disposed of, 67 per cent.

Predominant crime, Assault with Weapon.

COUNTY COURT OF TUSCALOOSA.

C. B. Verner, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to: Death	Penitentiary	Hard Labor	Jail	Fines paid or secured	Insane Asylum	Pardoned
Abusive language	54	40	3	11	---	---	---	---	---	40	---	---
Adultery and fornication	5	2	---	3	---	---	---	---	---	2	---	---
Arson, third degree	1	---	---	1	---	---	---	---	---	---	---	---
Assault and battery with weapon	51	46	1	4	---	---	---	---	---	46	---	---
Assault, intent to murder	14	9	1	4	---	---	---	2	2	7	---	---
Burglary	3	3	---	---	---	---	2	1	---	---	---	---
Concealing stolen property	50	41	3	6	---	---	---	9	---	37	---	---
Cruelty to animals	5	3	---	2	---	---	---	---	---	3	---	---
* Delinquent child	1	1	---	---	---	---	---	---	---	---	1	---
Disturbing religious worship	14	11	---	3	---	---	---	---	---	11	---	---
Embezzlement	2	---	---	2	---	---	---	---	---	---	---	---
Escape	7	4	---	3	---	---	---	2	1	2	---	---
Enticing labor	1	---	---	1	---	---	---	---	---	---	---	---
False pretense	3	---	---	3	---	---	---	---	---	---	---	---
Forgery, first degree	3	2	1	---	---	---	2	1	---	---	---	---
Gaming	51	40	2	9	---	---	---	2	---	39	---	---
Having burglary tools	1	---	1	---	---	---	---	---	---	---	---	---
Indecent exposure of person	2	2	---	---	---	---	---	---	---	2	---	---
Injuring property	2	2	---	---	---	---	---	1	---	1	---	---
Larceny, grand	18	14	2	2	---	---	8	5	1	2	---	---
Larceny, petit	28	20	---	7	1	---	---	4	15	16	---	---
Murder, first degree	8	4	2	1	1	1	3	---	---	---	---	---
Murder, second degree	7	4	2	1	---	---	2	2	---	---	---	---
Operating slot machine	7	6	---	1	---	---	---	---	---	6	---	---
Perjury	3	---	---	3	---	---	---	---	---	---	---	---
Practicing medicine without a license	1	---	---	1	---	---	---	---	---	---	---	---

COUNTY COURT OF TUSCALOOSA.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Presenting gun	1	1	---	---	---	---	---	---	---	1	---	---
Public drunkenness	8	7	---	1	---	---	---	---	---	7	---	---
Rape	2	1	---	1	---	---	1	---	---	---	---	---
Receiving stolen property	1	1	---	---	---	---	---	1	---	---	---	---
Refusing to assist sheriff	4	---	---	4	---	---	---	---	---	---	---	---
Resisting officer	5	2	---	3	---	---	---	1	---	1	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Shooting into dwelling	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	7	1	1	2	3	---	---	---	---	1	---	---
Trespass after warning	1	---	---	1	---	---	---	---	---	---	---	---
Unlawful injury to animal	3	2	1	---	---	---	---	1	---	---	---	---
Vagrancy	6	---	---	6	---	---	---	---	---	---	---	---
Violating automobile law	1	---	1	---	---	---	---	---	---	---	---	---
Violating election law	1	1	---	---	---	---	---	---	---	1	---	---
Violating game and fish law	9	7	1	1	---	---	---	---	---	7	---	---
Violating prohibition law	200	125	13	61	1	---	---	63	1	97	---	---
Violating Sunday law	8	8	---	---	---	---	---	1	---	7	---	---
Violating stock law	2	---	---	2	---	---	---	---	---	---	---	---
Violating mining law	4	3	---	1	---	---	---	---	---	3	---	---
Total	607	413	35	153	6	1	18	96	18	329	---	---

Percentage of convictions disposed of, 67 per cent.

Predominant crime, Violating Prohibition Law.

* Sent to Reformatory.

LAW AND EQUITY COURT OF WALKER COUNTY.

J. D. Acuff, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	64	27	1	35	1	---	---	3	---	24	---	---
Adultery and fornication	34	5	2	27	---	---	---	2	---	3	---	---
Affray	2	---	1	1	---	---	---	---	---	---	---	---
Allowing minor to play pool	1	---	---	---	1	---	---	---	---	---	---	---
Assault and battery	111	64	12	33	2	---	---	5	---	59	---	---
Assault and battery with weapon	43	29	2	11	1	---	---	3	---	26	---	---
Assault, intent to murder	20	3	5	8	4	---	3	---	---	---	---	---
Bigamy	1	---	1	---	---	---	---	---	---	---	---	---
Burglary	6	4	1	1	---	---	4	---	---	---	---	---
Burglary and grand larceny	5	4	---	1	---	---	3	---	1	---	---	---
Concealed weapons	108	47	15	42	4	---	---	15	---	32	---	---
Concealing stolen property	1	1	---	---	---	---	---	1	---	---	---	---
Compounding felony	2	1	1	---	---	---	---	---	---	1	---	---
Contempt	1	---	1	---	---	---	---	---	---	---	---	---
Cruelty to animals	4	---	1	1	2	---	---	---	---	---	---	---
Defamation	9	---	1	5	3	---	---	---	---	---	---	---
Disturbing religious worship	18	3	7	8	---	---	---	1	---	2	---	---
Disposing of mortgaged property	4	---	3	---	1	---	---	---	---	---	---	---
Disturbing females	2	2	---	---	---	---	---	---	---	2	---	---
Disturbing public assembly	7	4	---	3	---	---	---	---	---	4	---	---
Disturbing females on railroad train	1	1	---	---	---	---	---	---	---	1	---	---
Embezzlement	3	1	1	1	---	---	---	1	---	---	---	---
Enticing labor	1	---	---	1	---	---	---	---	---	---	---	---
Failing to repair public road	2	---	1	1	---	---	---	---	---	---	---	---
False pretense	21	7	3	5	6	---	1	1	1	4	---	---

LAW AND EQUITY COURT OF WALKER COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Forgery, first degree	1	---	---	---	1	---	---	---	---	---	---	---
Gaming	52	25	6	14	7	---	---	5	---	20	---	---
Injuring animals	11	3	4	4	---	---	---	---	---	3	---	---
Jumping off moving train	3	2	1	---	---	---	---	---	---	2	---	---
Larceny, grand	5	3	---	2	---	---	3	---	---	---	---	---
Larceny, petit	53	31	6	8	8	---	---	6	15	14	---	---
Malicious mischief	3	2	---	1	---	---	---	---	---	2	---	---
Manslaughter, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Miscegenation	1	---	---	---	1	---	---	---	---	---	---	---
Moving personal property	1	---	---	1	---	---	---	---	---	---	---	---
Murder, first degree	5	4	1	---	---	---	4	---	---	---	---	---
Murder, second degree	13	2	4	7	---	---	2	---	---	---	---	---
Perjury	3	1	1	1	---	---	1	---	---	---	---	---
Peddling without license	5	---	---	3	2	---	---	---	---	---	---	---
Practicing medicine without a license	3	---	---	3	---	---	---	---	---	---	---	---
Presenting gun	11	1	2	5	3	---	---	---	---	1	---	---
Public drunkenness	86	57	3	26	---	---	---	8	---	49	---	---
Receiving stolen property	1	1	---	---	---	---	---	---	---	1	---	---
Resisting officer	3	1	---	1	1	---	---	---	---	1	---	---
Robbery	1	---	---	1	---	---	---	---	---	---	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	2	1	---	1	---	---	---	---	---	1	---	---
Sending threatening letter	1	1	---	---	---	---	---	---	---	1	---	---
Shooting across public road	2	2	---	---	---	---	---	1	---	1	---	---
Taking girl under 18 for prostitution	1	1	---	---	---	---	---	1	---	---	---	---
Temporary use of property	4	---	2	1	1	---	---	---	---	---	---	---

LAW AND EQUITY COURT OF WALKER COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Trespass after warning	5	---	---	5	---	---	---	---	---	---	---	---
Unlawfully riding on train	2	---	2	---	---	---	---	---	---	---	---	---
Vagrancy	57	21	7	28	1	---	---	9	---	12	---	---
Violating game and fish law	12	2	3	7	---	---	---	---	---	2	---	---
Violating prohibition law	434	83	46	275	30	---	---	38	---	48	---	---
Violating Sunday law	4	1	---	3	---	---	---	---	---	1	---	---
Violating written contract	1	---	---	1	---	---	---	---	---	---	---	---
Total	1261	451	147	583	80	---	23	101	17	317	---	---

Percentage of convictions in cases disposed of, 35 per cent.
Predominant crime, Violating Prohibition Law.

WINSTON COUNTY COURT.

Z. McVay, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	30	17	2	11	---	---	---	1	---	16	---	---
Adultery and fornication	2	---	1	1	---	---	---	---	---	---	---	---
Arson, second degree	1	---	1	---	---	---	---	---	---	---	---	---
Assault and battery	16	9	1	6	---	---	---	2	---	7	---	---
Concealed weapons	24	9	3	12	---	---	---	---	---	9	---	---
Defamation	1	1	---	---	---	---	---	---	---	1	---	---
Disturbing religious worship	4	2	---	2	---	---	---	---	---	2	---	---
Escape	2	---	---	2	---	---	---	---	---	---	---	---
Failing to repair public road	10	---	3	7	---	---	---	---	---	---	---	---
False pretense	1	---	1	---	---	---	---	---	---	---	---	---
Horse racing	1	---	---	1	---	---	---	---	---	---	---	---
Injuring telegraph wires	2	---	1	1	---	---	---	---	---	---	---	---
Larceny, petit	1	1	---	---	---	---	---	1	---	---	---	---
Malicious injury to property	5	4	---	1	---	---	---	1	---	3	---	---
Practicing dentistry without a license	11	4	---	7	---	---	---	---	---	4	---	---
Presenting gun	1	---	---	1	---	---	---	---	---	---	---	---
Public drunkenness	15	9	---	6	---	---	---	---	---	9	---	---
Shooting across public road	1	---	---	1	---	---	---	---	---	---	---	---
Temporary use of property	2	2	---	---	---	---	---	---	---	2	---	---
Trespass after warning	2	---	1	1	---	---	---	---	---	---	---	---
Unlawful injury to animal	1	1	---	---	---	---	---	---	---	1	---	---
Unlawfully killing dog	3	1	2	---	---	---	---	---	---	1	---	---
* Vagrancy	2	2	---	---	---	---	---	---	---	---	---	---
Violating game and fish law	3	2	---	1	---	---	---	---	---	2	---	---
Violating prohibition law	94	28	7	58	---	---	---	1	---	27	---	---
Violating revenue law	1	1	---	---	---	---	---	---	---	1	---	---
Violating Sunday law	1	1	---	---	---	---	---	---	---	1	---	---
Total	237	94	23	118	---	---	---	6	---	*86	---	---

Percentage of convictions in cases disposed of, 39½ per cent.

Predominant crime, Violating Prohibition Law.

* Two sent to House of Refuge.

FIRST JUDICIAL CIRCUIT.

Composed of the Counties of Choctaw, Clarke, Marengo, Monroe and Washington.

Hon. John McDuffee, Solicitor, Monroeville, Ala.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	1	1	---	---	---	---	---	---	---	1	---	---
Arson, second degree	1	1	---	---	---	---	1	---	---	---	---	---
Assault and battery	10	8	1	---	1	---	---	2	---	6	---	---
Assault and battery with weapon	23	20	1	2	---	---	---	5	---	15	---	---
Assault, intent to murder	28	14	6	7	1	---	8	3	---	---	---	---
Assault, intent to ravish	4	1	1	2	---	---	1	---	---	---	---	---
Attempt at poison	2	1	---	1	---	---	---	1	---	---	---	---
Bastardy	2	2	---	---	---	---	---	---	---	2	---	---
Bigamy	1	1	---	---	---	---	1	---	---	---	---	---
Burglary	18	11	2	3	2	---	4	6	---	1	---	---
Burglary and grand larceny	4	3	1	---	---	---	1	---	---	3	---	---
Carnal knowledge, girl under 12	5	4	---	1	---	---	---	2	---	2	---	---
Concealed weapons	11	8	1	2	---	---	---	2	---	6	---	---
Doing business without license	6	---	---	6	---	---	---	---	---	---	---	---
Embezzlement	9	3	---	6	---	---	3	---	---	---	---	---
False pretense	3	2	1	---	---	---	---	2	---	---	---	---
Falsely impersonating another man	1	1	---	---	---	---	---	---	---	1	---	---
Forgery, first degree	1	---	---	---	1	---	---	---	---	---	---	---
Forgery, second degree	3	1	1	1	---	---	1	---	---	---	---	---
Forfeiture of bond	1	1	---	---	---	---	---	---	---	1	---	---
Gaming	5	3	1	1	---	---	---	---	---	3	---	---

FIRST JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Larceny, grand	40	27	6	3	4	---	11	13	---	3	---	---
Larceny, petit	38	37	1	---	---	---	---	7	3	31	---	---
Manslaughter, first degree	5	5	---	---	---	---	5	---	---	---	---	---
Murder, first degree	11	6	3	1	1	2	4	---	---	---	---	---
Murder, second degree	17	12	3	2	---	---	12	---	---	---	---	---
Rape	2	2	---	---	---	1	1	---	---	---	---	---
Receiving stolen property	1	---	---	---	1	---	---	---	---	---	---	---
Robbery	2	---	2	---	---	---	---	---	---	---	---	---
Selling diseased meat	1	1	---	---	---	---	---	---	---	1	---	---
Selling mortgaged property	1	1	---	---	---	---	1	---	---	---	---	---
Temporary use of animal	2	2	---	---	---	---	---	---	---	2	---	---
Unlawful injury to animal	3	---	3	---	---	---	---	---	---	---	---	---
Violating game and fish law	7	2	2	2	1	---	---	---	---	2	---	---
Violating prohibition law	71	30	7	15	19	---	---	2	---	28	---	---
Violating Sunday law	1	---	1	---	---	---	---	---	---	---	---	---
Violating written contract	2	---	---	1	1	---	---	---	---	---	---	---
Total	343	211	44	56	32	3	57	45	3	108	---	---

Percentage of convictions in cases disposed of, 61 per cent.

Predominant crime, Violating Prohibition Law.

SECOND JUDICIAL CIRCUIT.

Composed of the Counties of Baldwin, Butler, Conecuh, Crenshaw, Escambia and Lowndes.

C. R. Bricken, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	40	38	---	2	---	---	---	2	---	36	---	---
Adultery and fornication	2	2	---	---	---	---	---	---	---	2	---	---
Arson, first degree	2	1	1	---	---	---	1	---	---	---	---	---
Assault	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery	14	14	---	---	---	---	---	---	---	14	---	---
Assault and battery with weapon	79	77	---	2	---	---	---	10	---	67	---	---
Assault, intent to murder	30	25	4	1	---	---	15	10	---	---	---	---
Assault, intent to ravish	3	---	---	3	---	---	---	---	---	---	---	---
Bigamy	1	1	---	---	---	---	1	---	---	---	---	---
Burglary	13	12	1	---	---	---	3	9	---	---	---	---
Burglary and grand larceny	7	6	1	---	---	---	2	4	---	---	---	---
Concealed weapons	79	70	2	5	2	---	---	20	---	50	---	---
Contempt	2	2	---	---	---	---	---	---	---	2	---	---
Cruelty to animals	4	4	---	---	---	---	---	---	---	4	---	---
Defamation	1	1	---	---	---	---	---	---	---	1	---	---
Defaulting road hand	2	2	---	---	---	---	---	---	---	2	---	---
Disturbing religious worship	5	5	---	---	---	---	---	---	---	5	---	---
Disturbing females	3	3	---	---	---	---	---	---	---	3	---	---
Escape	1	1	---	---	---	---	---	---	---	1	---	---
False pretense	4	3	---	1	---	---	---	---	---	3	---	---
Forgery, first degree	3	2	1	---	---	---	2	---	---	---	---	---
Forgery, second degree	4	4	---	---	---	---	4	---	---	---	---	---
Gaming	14	13	---	1	---	---	---	---	---	13	---	---
Larceny, grand	33	29	1	3	---	---	9	20	---	---	---	---
Larceny, petit	30	28	---	2	---	---	---	8	---	20	---	---
Malicious mischief	1	1	---	---	---	---	---	---	---	1	---	---

SECOND JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Manslaughter, first degree	4	4	---	---	---	---	4	---	---	---	---	---
Manslaughter, second degree	4	4	---	---	---	---	---	4	---	---	---	---
Murder, first degree	11	7	1	---	3	1	6	---	---	---	---	---
Murder, second degree	22	21	1	---	---	---	21	---	---	---	---	---
Playing cards, public place	3	3	---	---	---	---	---	---	---	3	---	---
Practicing medicine without a license	1	1	---	---	---	---	---	---	---	1	---	---
Presenting gun	2	2	---	---	---	---	---	1	---	1	---	---
Public drunkenness	29	25	---	4	---	---	---	---	---	25	---	---
Rape	1	1	---	---	---	---	1	---	---	---	---	---
Receiving stolen property	1	1	---	---	---	---	---	---	---	1	---	---
Resisting officer	2	2	---	---	---	---	---	---	---	2	---	---
Robbery	1	---	---	1	---	---	---	---	---	---	---	---
Shooting into dwelling	2	2	---	---	---	---	---	---	---	2	---	---
Selling mortgaged property	6	5	---	1	---	---	---	1	---	4	---	---
Shooting across public road	1	1	---	---	---	---	---	---	---	1	---	---
Sodomy	2	2	---	---	---	---	1	1	---	---	---	---
Temporary use of property	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	2	2	---	---	---	---	---	---	---	2	---	---
Unlawfully riding on train	1	1	---	---	---	---	---	1	---	---	---	---
Vagrancy	2	1	---	1	---	---	---	---	---	1	---	---
Violating prohibition law	73	64	3	6	---	---	---	31	---	33	---	---
Violating Sunday law	22	21	1	---	---	---	---	---	---	21	---	---
Violating written contract	1	1	---	---	---	---	---	1	---	---	---	---
Total	572	517	17	33	5	1	70	123	---	323	---	---

Percentage of convictions in cases disposed of, 90 per cent

Predominant crime, Assault and Battery with weapen, and Concealed Weapon.

THIRD JUDICIAL CIRCUIT.

Composed of the Counties of Barbour, Bullock, Dale, Henry and Russell.
H. B. Steagall, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	31	23	3	5	---	---	---	1	---	22	---	---
Adultery and fornication	1	---	---	1	---	---	---	---	---	---	---	---
Arson, first degree	1	---	1	---	---	---	---	---	---	---	---	---
Arson, second degree	4	2	---	1	1	---	2	---	---	---	---	---
Assault	1	1	---	---	---	---	---	1	---	---	---	---
Assault and battery	130	108	8	12	1	---	---	23	7	87	---	---
Assault and battery with weapon	8	6	---	2	---	---	---	6	---	---	---	---
Assault, intent to murder	36	11	9	16	---	---	9	2	---	---	---	---
Assault, intent to ravish	1	---	1	---	---	---	---	---	---	---	---	---
Attempt to commit a felony	2	2	---	---	---	---	---	---	---	2	---	---
Bastardy	5	2	---	3	---	---	---	---	---	2	---	---
Bestiality	1	1	---	---	---	---	1	---	---	---	---	---
Burglary	34	22	4	8	---	---	18	4	---	---	---	---
Concealed weapons	63	40	6	14	3	---	---	15	---	25	---	---
Cock fighting	3	---	1	2	---	---	---	---	---	---	---	---
Crime against nature	2	---	1	1	---	---	---	---	---	---	---	---
Cruelty to animals	4	3	1	---	---	---	---	---	---	3	---	---
Destroying fence	2	---	---	2	---	---	---	---	---	---	---	---
Disturbing religious worship	3	1	---	2	---	---	---	---	---	1	---	---
Disposing of property under lien	5	5	---	---	---	---	---	1	---	4	---	---
Embezzlement	8	3	1	4	---	---	1	2	---	1	---	---
Escape	1	1	---	---	---	---	---	1	---	---	---	---
Enticing labor	1	1	---	---	---	---	---	---	---	1	---	---
Failing to repair public road	4	2	---	2	---	---	---	---	---	2	---	---

THIRD JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
False pretense	10	2	1	5	2	---	---	---	---	2	---	---
False impersonation	1	---	---	1	---	---	---	---	---	---	---	---
Forgery, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Gaming	2	1	---	1	---	---	---	---	---	1	---	---
Gaming on Sunday	2	1	1	---	---	---	---	---	---	1	---	---
Incest	2	---	1	1	---	---	---	---	---	---	---	---
Illegal voting	7	---	1	6	---	---	---	---	---	---	---	---
Larceny, grand	22	13	2	6	1	---	9	4	---	---	---	---
Larceny, petit	46	27	5	14	---	---	---	9	16	20	---	---
Manslaughter, first degree	8	8	---	---	---	---	8	---	---	---	---	---
Manslaughter, second degree	7	7	---	---	---	---	---	7	---	---	---	---
Murder, first degree	13	4	6	3	---	1	3	---	---	---	---	---
Murder, second degree	29	21	4	4	---	---	21	---	---	---	---	---
Obstructing public road	1	---	1	---	---	---	---	---	---	---	---	---
Obstructing railroad	1	---	1	---	---	---	---	---	---	---	---	---
Perjury	2	1	---	1	---	---	1	---	---	---	---	---
Practicing medicine without a license	2	---	---	2	---	---	---	---	---	---	---	---
Presenting gun	7	7	---	---	---	---	---	1	---	6	---	---
Public drunkenness	25	21	2	2	---	---	---	4	---	20	---	3
Receiving stolen property	2	---	2	---	---	---	---	---	---	---	---	---
Removing property under lien	2	---	---	2	---	---	---	---	---	---	---	---
Resisting officer	1	---	---	1	---	---	---	---	---	---	---	---
Removing landmark	1	---	1	---	---	---	---	---	---	---	---	---
Robbery	1	1	---	---	---	---	1	---	---	---	---	---
Selling mortgaged property	16	6	---	10	---	---	---	---	---	6	---	---
Shooting across public road	3	1	---	2	---	---	---	---	---	1	---	---
Shooting on Sunday	1	---	---	1	---	---	---	---	---	---	---	---

THIRD JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Unlawful injury to animal	2	1	---	1	---	---	---	---	---	1	---	---
Vagrancy	4	2	1	1	---	---	---	1	---	1	---	---
Violating court contract	3	1	---	2	---	---	---	---	---	1	---	---
Violating game and fish law	11	11	---	---	---	---	---	---	---	11	---	---
Violating prohibition law	120	68	14	27	11	---	---	60	---	33	---	25
Violating revenue law	3	2	---	1	---	---	---	---	---	2	---	---
Violating Sunday law	15	9	2	4	---	---	---	---	---	9	---	---
Violating stock law	3	1	1	1	---	---	---	---	---	1	---	---
Violating written contract	4	1	---	3	---	---	---	---	---	1	---	---
Total	732	454	82	177	19	1	76	142	17	217	---	---

Percentage of convictions in cases disposed of, 62 per cent.
Predominant crime, Assault and Battery.

* FOURTH JUDICIAL CIRCUIT.

Composed of the Counties of Bibb, Dallas, Hale, Perry and Wilcox.
J. F. Thompson, Solicitor.

* Incomplete; Unable after repeated requests to obtain reports from Circuit Court of Wilcox County.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to: Death	Penitentiary	Hard Labor	Jail	Fines paid or secured	Insane Asylum	Pardoned
Abusive language	3	3	---	---	---	---	---	---	---	3	---	---
Adultery and fornication	1	1	---	---	---	---	---	---	---	1	---	---
Allowing minor to play pool	1	1	---	---	---	---	---	---	---	1	---	---
Arson, second degree	3	3	---	---	---	---	1	2	---	---	---	---
Arson, third degree	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery	22	19	---	3	---	---	---	2	---	17	---	---
Assault and battery with weapon	45	39	1	5	---	---	---	8	---	31	---	---
Assault, intent to murder	14	4	---	9	1	---	2	2	---	---	---	---
Burglary	33	26	2	5	---	---	6	20	---	---	---	---
Carnal knowledge, girl under 12	1	1	---	---	---	---	1	---	---	---	---	---
Concealed weapons	54	41	3	10	---	---	---	12	---	34	---	---
Embezzlement	3	1	---	2	---	---	---	1	---	---	---	---
Enticing minor	1	---	---	1	---	---	---	---	---	---	---	---
Escape	6	6	---	---	---	---	---	6	---	---	---	---
Enticing labor	1	1	---	---	---	---	---	---	---	1	---	---
Failing to repair public road	5	2	---	3	---	---	---	---	---	2	---	---
False pretense	7	3	2	2	---	---	3	---	---	---	---	---
Forgery, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Gaming	9	5	---	4	---	---	---	---	---	5	---	---
Illegal voting	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	44	31	5	7	1	---	7	24	---	---	---	---
Larceny, petit	39	37	1	1	---	---	---	16	---	21	---	---
Manslaughter, first degree	9	9	---	---	---	---	8	1	---	---	---	---

FOURTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Manslaughter, second degree	4	4	---	---	---	---	---	2	---	2	---	---
Murder, first degree	11	6	3	2	---	4	2	---	---	---	---	---
Murder, second degree	1	---	1	---	---	---	---	---	---	---	---	---
Obstructing railroad	1	1	---	---	---	---	1	---	---	---	---	---
Presenting gun	6	3	---	3	---	---	---	2	---	1	---	---
Rape	2	2	---	---	---	---	2	---	---	---	---	---
Resisting officer	3	2	---	1	---	---	---	1	---	1	---	---
Robbery	2	---	---	2	---	---	---	---	---	---	---	---
Selling mortgaged property	4	1	---	3	---	---	---	---	---	1	---	---
Shooting across public road	3	---	---	3	---	---	---	---	---	---	---	---
Temporary use of animal	3	2	---	1	---	---	---	---	---	2	---	---
Tampering with railroad switch	1	---	1	---	---	---	---	---	---	---	---	---
Trespass after warning	4	2	---	2	---	---	---	---	---	2	---	---
Unlawful injury to animal	4	1	---	3	---	---	---	---	---	1	---	---
Vagrancy	2	---	---	1	1	---	---	---	---	---	---	---
Violating court contract	1	---	---	1	---	---	---	---	---	---	---	---
Violating prohibition law	246	152	6	39	49	---	---	60	---	92	---	---
Violating quarantine law	3	---	---	3	---	---	---	---	---	---	---	---
Total	605	411	25	119	52	4	34	159	---	219	---	---

Percentage of convictions in cases disposed of, 68 per cent.

Predominant crime, Violating Prohibition Law.

FIFTH JUDICIAL CIRCUIT.

Composed of the Counties of Chambers, Coosa, Macon, Randolph and Tallapoosa.

Hon. W. B. Bowling, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	39	26	2	10	1	---	---	---	---	26	---	---
Adultery and fornication	5	---	2	---	3	---	---	---	---	---	---	---
Affray	12	11	---	1	---	---	---	---	---	11	---	---
Arson, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Arson, second degree	3	1	2	---	---	---	1	---	---	---	---	---
Assault	4	4	---	---	---	---	---	---	---	4	---	---
Assault and battery	20	18	1	1	---	---	---	---	---	18	---	---
Assault and battery with weapon	58	51	2	4	1	---	---	4	---	51	---	---
Assault, intent to murder	27	17	4	5	1	---	17	---	---	---	---	---
Assault, intent to ravish	6	3	3	---	---	---	3	---	---	---	---	---
Bigamy	1	1	---	---	---	---	1	---	---	---	---	---
Burglary	29	26	1	1	1	---	26	---	---	---	---	---
Burglary and grand larceny	3	3	---	---	---	---	3	---	---	---	---	---
Concealed weapons	43	35	1	6	1	---	---	---	---	35	---	---
Cruelty to animals	1	1	---	---	---	---	---	---	---	1	---	---
Defamation	1	1	---	---	---	---	---	---	---	1	---	---
Defaulting road hand	12	2	6	4	---	---	---	---	---	2	---	---
Disturbing religious worship	28	25	1	1	1	---	---	---	---	25	---	---
Disturbing public assembly	1	1	---	---	---	---	---	---	---	1	---	---
Dynamiting stream	2	2	---	---	---	---	---	---	---	2	---	---
Embezzlement	5	1	1	3	---	---	1	---	---	---	---	---
Escape	2	1	---	1	---	---	---	---	---	1	---	---
False pretense	5	2	1	1	1	---	---	---	---	2	---	---
Forgery, first degree	5	3	---	1	1	---	3	---	---	---	---	---
Gaming	17	14	---	3	---	---	---	---	---	14	---	---
Incest	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	21	12	1	7	1	---	12	---	---	---	---	---

FIFTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Larceny, petit	22	20	---	2	---	---	---	1	---	19	---	---
Malicious mischief	3	2	1	---	---	---	---	1	---	1	---	---
Manslaughter, first degree	15	15	---	---	---	---	15	---	---	---	---	---
Miscegenation	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	14	10	2	1	1	---	10	---	---	---	---	---
Murder, second degree	27	23	4	---	---	---	23	---	---	---	---	---
Obstructing railroad	1	1	---	---	---	---	1	---	---	---	---	---
Perjury	4	1	1	2	---	---	1	---	---	---	---	---
Presenting gun	7	4	---	3	---	---	---	---	---	4	---	---
Public drunkenness	19	17	---	1	1	---	---	---	---	17	---	---
Rape	1	---	1	---	---	---	---	---	---	---	---	---
Resisting officer	2	1	---	1	---	---	---	---	---	1	---	---
Robbery	4	2	1	1	---	---	2	---	---	---	---	---
Seduction	3	1	---	2	---	---	1	---	---	---	---	---
Shooting into dwelling	9	9	---	---	---	---	---	---	---	9	---	---
Selling on Sunday	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	7	3	3	1	---	---	---	---	---	3	---	---
Shooting across public road	4	3	1	---	---	---	---	---	---	3	---	---
Temporary use of property	2	1	---	1	---	---	---	---	---	1	---	---
Trespass after warning	1	1	---	---	---	---	---	---	---	1	---	---
Unlawfully riding on train	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	15	9	4	2	---	---	---	3	---	6	---	---
Violating court contract	10	4	2	3	1	---	---	---	---	4	---	---
Violating game and fish law	1	---	---	1	---	---	---	---	---	---	---	---
Violating prohibition law	171	127	12	26	6	---	---	39	3	124	---	---
Violating revenue law	2	1	---	1	---	---	---	---	---	1	---	---
Violating Sunday law	43	38	---	5	---	---	---	---	---	38	---	---
Violating written contract	3	1	---	2	---	---	---	---	---	1	---	---
Total	745	558	60	106	21	---	122	47	4	428	---	---

Percentage of convictions in cases disposed of, 73½ per cent.

Predominant crime, Violation of Prohibition Law.

SIXTH JUDICIAL CIRCUIT.

Composed of the Counties of Fayette, Greene, Lamar, Pickens, Sumter and Tuscaloosa.

M. T. Ormond, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abandonment	2	1	---	1	---	---	---	---	---	1	---	---
Abusive language	15	13	2	---	---	---	---	1	---	12	---	---
Adultery and fornication	4	3	---	1	---	---	---	1	---	2	---	---
Arson, first degree	1	---	1	---	---	---	---	---	---	---	---	---
Arson, third degree	2	2	---	---	---	---	---	1	---	1	---	---
Assault	1	1	---	---	---	---	---	1	---	---	---	---
Assault and battery	68	61	---	7	---	---	---	3	1	59	---	---
Assault and battery with weapon	48	39	---	9	---	---	---	2	---	38	---	---
Assault, intent to murder	15	7	2	2	4	---	5	2	---	---	---	---
Assault, intent to ravish	2	2	---	---	---	---	2	---	---	---	---	---
Attempt at arson	1	1	---	---	---	---	---	1	---	---	---	---
Attempt at burglary	1	1	---	---	---	---	---	---	---	1	---	---
Attempt to commit a felony	4	4	---	---	---	---	---	---	---	4	---	---
Burglary	21	15	1	5	---	---	3	12	---	---	---	---
Burglary and grand larceny	5	4	1	---	---	---	---	4	---	2	---	---
Carnal knowledge, girl under 12	1	1	---	---	---	---	1	---	---	---	---	---
Concealed weapons	47	36	3	6	2	---	---	1	---	35	---	---
Conspiracy	8	8	---	---	---	---	---	7	---	1	---	---
Defacing public buildings	1	1	---	---	---	---	---	---	---	1	---	---
Disturbing religious worship	4	3	1	---	---	---	---	---	---	3	---	---
Disposing of mortgaged property	1	---	---	1	---	---	---	---	---	---	---	---
Disturbing females	2	2	---	---	---	---	---	---	---	2	---	---
Embezzlement	2	---	---	2	---	---	---	---	---	---	---	---

SIXTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Enticing labor	1	1								1		
Failure to repair public road	3	3								3		
False pretense	12	8	1	3				1		7		
Forgery, first degree	1			1								
Forgery, second degree	2			2								
Forgery, third degree	1	1						1				
Gaming	19	13	1	4	1			1		12		
Keeping sheep-killing dog	2		2									
Larceny grand	37	27	1	8	1		7	20				
Larceny petit	39	30	1	7	1			4		28		
Manslaughter, first degree	6	5		1			5					
Manslaughter, second degree	1	1						1				
Murder, first degree	6		3	2	1							
Murder, second degree	15	12	1	1	1		12					
Obstructing public road	1			1								
Obstructing railroad	1	1					1					
Overseer, neglect of duty	2		1	1								
Practicing medicine without a license	1	1								1		
Presenting gun	5	4	1							4		
Public drunkenness	109	98	1	9	1					98		
Rape	1	1					1					
Receiving stolen property	1	1								1		
Removing mortgaged property	19	12	3	4				1		11		
Robbery	8	2	1	4	1		2					
Seduction	1		1									
Selling liquor to minor	1		1									
Sending abusive letter	1	1								1		

SIXTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Swapping horses without license	1	1	---	---	---	---	---	---	---	1	---	---
Shooting across public road	1	1	---	---	---	---	---	---	---	1	---	---
Temporary use of animal	1	---	---	1	---	---	---	---	---	---	---	---
Trespass after warning	5	2	---	3	---	---	---	---	---	2	---	---
Unlawful injury to animal	3	2	---	1	---	---	---	---	---	2	---	---
Unlawfully killing dog	1	---	---	1	---	---	---	---	---	---	---	---
Vagrancy	5	2	1	2	---	---	---	---	---	2	---	---
Violating game and fish law	2	1	---	1	---	---	---	---	---	1	---	---
Violating prohibition law	162	106	10	38	8	---	---	24	6	97	---	---
Violating Sunday law	40	38	---	2	---	---	---	---	---	38	---	---
Violating stock law	4	3	---	1	---	---	---	---	---	3	---	---
Violation Sec. 7074 Code	1	---	1	---	---	---	---	---	---	---	---	---
Total	778	583	42	132	21	---	39	89	7	476	---	---

Percentage of convictions in cases disposed of, 75½ per cent.
Predominant crime, Violating Prohibition Law.

SEVENTH JUDICIAL CIRCUIT.

Composed of the Counties of Cleburne, * Calhoun, * Clay, Shelby and * Talladega.

Chas. S. Cornelius, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	13	12	1	---	---	---	---	---	---	12	---	---
Adultery and fornication	1	---	---	1	---	---	---	---	---	---	---	---
Arson, second degree	1	---	1	---	---	---	---	---	---	---	---	---
Assault and battery	13	7	3	3	---	---	---	---	---	7	---	---
Assault and battery with weapon	7	6	1	---	---	---	---	---	---	6	---	---
Assault, intent to murder	3	---	---	2	1	---	---	---	---	---	---	---
Assault, intent to ravish	1	1	---	---	---	---	1	---	---	---	---	---
Bastardy	1	1	---	---	---	---	---	---	---	1	---	---
Bigamy	1	1	---	---	---	---	1	---	---	---	---	---
Bringing stolen property into State	3	3	---	---	---	---	3	---	---	---	---	---
Burglary	1	---	---	1	---	---	---	---	---	---	---	---
Burglary and grand larceny	3	2	1	---	---	---	2	---	---	---	---	---
Carnal knowledge, girl under 12	1	---	---	1	---	---	---	---	---	---	---	---
Concealed weapons	18	11	4	3	---	---	---	1	---	10	---	---
Defacing public buildings	1	1	---	---	---	---	---	---	---	1	---	---
Disturbing religious worship	4	3	1	---	---	---	---	---	---	3	---	---
Failing to repair public road	1	1	---	---	---	---	---	---	---	1	---	---
Indecent exposure of person	3	2	1	---	---	---	---	---	---	2	---	---
Larceny, grand	1	1	---	---	---	---	1	---	---	---	---	---
Larceny, petit	9	7	---	2	---	---	---	2	5	4	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	---	1	1	---	---
Miscegenation	2	---	---	2	---	---	---	---	---	---	---	---

SEVENTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Murder, first degree	2	---	1	---	1	---	---	---	---	---	---	---
Murder, second degree	2	1	---	1	---	---	1	---	---	---	---	---
Overseer, neglect of duty	2	1	1	---	---	---	---	---	---	1	---	---
Presenting gun	4	2	1	1	---	---	---	---	---	2	---	---
Public drunkenness	23	17	2	4	---	---	---	---	---	17	---	---
Rape	1	---	1	---	---	---	---	---	---	---	---	---
Seduction	1	1	---	---	---	---	1	---	---	---	---	---
Selling mortgaged property	7	5	2	---	---	---	---	---	3	2	---	---
Trespass after warning	1	---	1	---	---	---	---	---	---	---	---	---
Violating game and fish law	5	5	---	---	---	---	---	---	---	5	---	---
Violating prohibition law	32	11	9	11	1	---	---	1	---	10	---	---
Violating written contract	1	1	---	---	---	---	---	1	---	1	---	---
Total	171	105	31	32	3	---	11	5	9	86	---	---

Percentage of convictions in cases disposed of, 61½ per cent.

Predominant crime, Violating Prohibition Law.

* All criminal cases were disposed of in the City and County Court in these counties.

EIGHTH JUDICIAL CIRCUIT.

Composed of the Counties of Calhoun, Morgan, Lawrence and Limestone.
Hon. D. C. Almon, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to: Death	Penitentiary	Hard Labor	Jail	Fines paid or secured	Insane Asylum	Pardoned
Abusive language	2	1	---	1	---	---	---	---	---	1	---	---
Adultery and fornication	2	1	---	1	---	---	---	1	---	---	---	---
Arson, first degree	4	1	2	1	---	---	1	---	---	---	---	---
Assault	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery	5	5	---	---	---	---	---	---	---	5	---	---
Assault and battery with weapon	15	14	---	1	---	---	---	---	---	14	---	---
Assault, intent to murder	3	---	1	2	---	---	---	---	---	---	---	---
Assault, intent to ravish	1	---	---	1	---	---	---	---	---	---	---	---
Attempt at larceny	3	1	---	2	---	---	---	---	---	1	---	---
Bastardy	1	1	---	---	---	---	---	---	---	1	---	---
Bigamy	1	---	---	1	---	---	---	---	---	---	---	---
Burglary	23	22	1	---	---	---	*21	---	---	---	---	---
Concealed weapons	19	12	3	4	---	---	---	1	---	11	---	---
Disturbing religious worship	7	6	---	1	---	---	---	---	---	6	---	---
Embezzlement	1	---	---	1	---	---	---	---	---	---	---	---
False pretense	4	2	1	1	---	---	1	1	---	---	---	---
Forgery, first degree	10	7	---	2	1	---	7	---	---	---	---	---
Gaming	1	---	---	1	---	---	---	---	---	---	---	---
Incest	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	31	28	1	2	---	---	28	---	---	---	---	---
Larceny, petit	3	3	---	---	---	---	---	2	1	---	---	---
Malicious mischief	1	1	---	---	---	---	---	---	---	1	---	---
Manslaughter, first degree	7	6	1	---	---	---	6	---	---	---	---	---
Manslaughter, second degree	5	5	---	---	---	---	†4	---	---	---	---	---
Murder, first degree	14	8	5	1	---	---	8	---	---	---	---	---
Murder, second degree	2	2	---	---	---	---	2	---	---	---	---	---

EIGHTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Obstructing public road	1	---	1	---	---	---	---	---	---	---	---	---
Obstructing railroad	1	1	---	---	---	---	1	---	---	---	---	---
Perjury	3	---	1	2	---	---	---	---	---	---	---	---
Public drunkenness	3	3	---	---	---	---	---	---	---	3	---	---
Rape	2	1	---	1	---	---	1	---	---	---	---	---
Removing mortgaged property	1	---	---	1	---	---	---	---	---	---	---	---
Robbery	5	5	---	---	---	---	5	---	---	---	---	---
Shooting across public road	2	2	---	---	---	---	---	---	---	2	---	---
Shooting on Sunday	2	1	---	1	---	---	---	---	---	1	---	---
Violating prohibition law	107	55	2	50	---	---	---	3	---	55	---	---
Violating stock law	1	---	---	1	---	---	---	---	---	---	---	---
Total	295	195	19	80	1	---	85	10	---	102	---	---

Percentage of convictions in cases disposed of, 65 per cent.

Predominant crime, Violating Prohibition Law.

* One sentenced to Reform School.

† One sentenced to Reform School.

NINTH JUDICIAL CIRCUIT.

Composed of the Counties of Cherokee, DeKalb, * Jackson and Marshall.
C. C. Appleton, Solicitor.

* Circuit Solicitor does not prosecute in Jackson Circuit Court. Local Act for Jackson County.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	102	40	12	48	2	---	---	1	---	39	---	---
Adultery and fornication	8	2	5	1	---	---	---	---	---	2	---	---
Aiding escape	1	1	---	---	---	---	---	---	---	1	---	---
Arson, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Assault	36	18	8	10	---	---	---	---	---	18	---	---
Assault and battery	23	7	7	9	---	---	---	---	---	7	---	---
Assault and battery with weapon	21	17	2	2	---	---	---	---	1	17	---	---
Assault, intent to murder	10	3	1	5	1	---	3	---	---	---	---	---
Assault, intent to ravish	3	1	2	---	---	---	1	---	---	---	---	---
Attempt at bribery	1	1	---	---	---	---	1	---	---	---	---	---
Betting at cards	1	1	---	---	---	---	---	---	---	1	---	---
Bastardy	2	1	1	---	---	---	---	---	---	1	---	---
Bigamy	2	---	---	2	---	---	---	---	---	---	---	---
Burglary	5	2	---	2	1	---	2	---	---	---	---	---
Concealed weapons	88	29	21	32	6	---	---	3	---	26	---	---
Changing hog mark	1	---	---	1	---	---	---	---	---	---	---	---
Defamation	5	2	1	2	---	---	---	---	---	2	---	---
Disturbing religious worship	34	14	1	19	---	---	---	---	---	14	---	---
Disposing of property under lien	1	---	---	1	---	---	---	---	---	---	---	---
Disturbing females	12	6	1	5	---	---	---	---	---	6	---	---
Disturbing school	1	1	---	---	---	---	---	---	---	1	---	---
Embezzlement	1	---	---	1	---	---	---	---	---	---	---	---
Failing to repair public road	14	3	11	---	---	---	---	---	---	3	---	---

NINTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
False pretense	4	---	---	4	---	---	---	---	---	---	---	---
Forgery, first degree	2	---	1	1	---	---	---	---	---	---	---	---
Gaming	8	7	---	1	---	---	---	---	---	7	---	---
Gaming on Sunday	13	9	---	4	---	---	---	---	---	9	---	---
Giving liquor to minor	7	3	---	4	---	---	---	---	---	3	---	---
Horse racing	1	---	---	1	---	---	---	---	---	---	---	---
Incest	5	1	1	3	---	---	1	---	---	---	---	---
Justice of peace, neglect of duty	2	1	---	1	---	---	---	---	---	1	---	---
Keeping house of prostitution	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	6	3	1	2	---	---	3	---	---	---	---	---
Larceny, petit	15	3	2	10	---	---	---	---	2	3	---	---
Malicious mischief	11	3	5	3	---	---	---	---	---	3	---	---
Manslaughter, first degree	4	2	2	---	---	---	2	---	---	---	---	---
Manslaughter, second degree	2	1	---	1	---	---	---	1	---	---	---	---
Miscegenation	1	---	1	---	---	---	---	---	---	---	---	---
Murder, first degree	2	---	---	---	2	---	---	---	---	---	---	---
Murder, second degree	3	2	1	---	---	---	2	---	---	---	---	---
Obstructing public road	10	2	6	2	---	---	---	---	---	2	---	---
Overseer, neglect of duty	1	---	---	1	---	---	---	---	---	---	---	---
Practicing dentistry without a license	1	---	---	1	---	---	---	---	---	---	---	---
Practicing medicine without a license	5	1	1	3	---	---	---	---	---	1	---	---
Public drunkenness	130	66	15	49	---	---	---	---	---	66	---	---
Rape	2	---	1	1	---	---	---	---	---	---	---	---
Removing property under lien	2	---	---	2	---	---	---	---	---	---	---	---

NINTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Seduction	2	---	1	1	---	---	---	---	---	---	---	---
Selling diseased meat	6	2	---	4	---	---	---	---	---	2	---	---
Severing and taking property	4	3	---	1	---	---	---	---	---	3	---	---
Shooting across public road	4	2	1	1	---	---	---	---	---	2	---	---
Temporary use of property	2	1	---	1	---	---	---	---	---	1	---	---
Throwing missile at dwelling	1	---	1	---	---	---	---	---	---	---	---	---
Trespass after warning	7	1	3	2	1	---	---	---	---	1	---	---
Vagrancy	4	---	---	4	---	---	---	---	---	---	---	---
Violating game and fish law	1	1	---	---	---	---	---	---	---	1	---	---
Violating prohibition law	207	62	33	109	3	---	---	30	1	39	---	---
Violating Sunday law	10	8	---	2	---	---	---	---	---	8	---	---
Violating stock law	4	3	1	---	---	---	---	---	---	3	---	---
Total	871	336	153	366	16	---	15	35	4	293	---	---

Percentage of convictions in cases disposed of, 38 per cent.
Predominant crime, Violating Prohibition Law.

TENTH JUDICIAL CIRCUIT.

Jefferson County.
Jas. R. Tate, Solicitor.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Assault and battery	1	---	---	1	---	---	---	---	---	---	---	---
Bastardy	3	2	---	1	---	---	---	---	---	2	---	---
Embezzlement	1	---	---	1	---	---	---	---	---	---	---	---
Vagrancy	1	---	---	---	1	---	---	---	---	---	---	---
Total	6	2	---	2	2	---	---	---	---	---	---	---

Percentage of convictions in cases disposed of, 33 1-3 per cent.
Predominant crime, Bastardy.

* Circuit Solicitor assists under law in prosecutions in Jefferson County Criminal Court.

ELEVENTH JUDICIAL CIRCUIT.

Composed of the Counties of Marion, Lauderdale, Colbert and Franklin.
Hon. R. T. Simpson, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	48	27	2	19	---	---	---	2	---	25	---	---
Adultery and fornication	4	2	---	1	1	---	---	---	---	2	---	---
Arson, first degree	4	2	1	1	---	---	2	---	---	---	---	---
Assault	5	4	1	---	---	---	---	---	---	4	---	---
Assault and battery	15	10	2	3	---	---	---	---	---	10	---	---
Assault and battery with weapon	48	38	1	9	---	---	---	4	---	34	---	---
Assault, intent to murder	18	12	1	3	2	---	8	4	---	---	---	---
Assault, intent to ravish	1	1	---	---	---	---	1	---	---	---	---	---
Attempt at burglary	1	1	---	---	---	---	---	---	---	1	---	---
Betting at cards	1	1	---	---	---	---	---	---	---	1	---	---
Bastardy	1	---	---	1	---	---	---	---	---	---	---	---
Bigamy	2	1	---	1	---	---	1	---	---	---	---	---
Burglary	31	23	5	3	---	---	18	5	---	---	---	---
Concealed weapons	58	36	2	20	---	---	---	7	---	30	---	---
Cruelty to animals	1	---	---	1	---	---	---	---	---	---	---	---
Defacing public buildings	3	3	---	---	---	---	---	---	---	3	---	---
Defamation	1	---	---	1	---	---	---	---	---	---	---	---
Defaulting road hand	7	1	---	6	---	---	---	---	---	1	---	---
Disturbing religious worship	41	22	7	10	2	---	---	---	---	22	---	---
Disposing of mortgaged property	4	2	---	2	---	---	---	---	---	2	---	---
Disturbing females	2	2	---	---	---	---	---	---	---	2	---	---
Embezzlement	9	---	1	1	7	---	---	---	---	---	---	---
Escape	1	1	---	---	---	---	---	1	---	---	---	---
False pretense	13	4	---	9	---	---	---	3	---	1	---	---
Forgery, first degree	5	2	---	3	---	---	2	---	---	---	---	---
Gaming	7	6	---	1	---	---	---	---	---	6	---	---
Gaming in public place	1	1	---	---	---	---	---	---	---	1	---	---

ELEVENTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Keeping gaming table	3	---	1	2	---	---	---	---	---	---	---	---
Killing hogs unlawfully	4	---	---	4	---	---	---	---	---	---	---	---
Larceny, grand	43	32	3	6	2	---	23	9	---	---	---	---
Larceny, petit	24	14	---	10	---	---	---	7	3	5	---	---
Malicious mischief	1	---	1	---	---	---	---	---	---	---	---	---
Manslaughter, first degree	8	8	---	---	---	---	8	---	---	---	---	---
Manslaughter, second degree	2	2	---	---	---	---	---	2	---	---	---	---
Murder, first degree	14	10	3	1	---	---	10	---	---	---	---	---
Murder, second degree	4	3	1	---	---	---	3	---	---	---	---	---
Playing cards on Sunday	3	2	---	1	---	---	---	---	---	2	---	---
Playing cards, public place	1	1	---	---	---	---	---	---	---	1	---	---
Presenting gun	3	3	---	---	---	---	---	---	---	3	---	---
Public drunkenness	159	126	1	31	1	---	---	---	---	126	---	---
Reckless driving	2	2	---	---	---	---	---	---	---	2	---	---
Resisting officer	9	5	2	2	---	---	---	---	---	5	---	---
Robbery	5	3	---	2	---	---	3	---	---	---	---	---
Seduction	3	---	---	3	---	---	---	---	---	---	---	---
Shooting into dwelling	1	1	---	---	---	---	---	---	---	1	---	---
Selling mortgaged property	8	3	---	5	---	---	---	---	---	3	---	---
Shooting across public road	3	2	---	1	---	---	---	---	---	2	---	---
Temporary use of property	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	8	1	1	6	---	---	---	---	---	1	---	---
Unlawful injury to animal	1	1	---	---	---	---	---	---	---	1	---	---
Unlawfully killing dog	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	8	1	2	5	---	---	---	---	---	1	---	---
Violating prohibition law	263	149	6	100	8	---	---	27	---	124	---	---
Violating revenue law	1	1	---	---	---	---	---	---	---	1	---	---
Violating Sunday law	11	1	---	10	---	---	---	---	---	1	---	---
Violating stock law	2	2	---	---	---	---	---	---	---	2	---	---
Total	930	578	45	284	23	---	79	71	3	429	---	---

Percentage of convictions in cases disposed of, 61 per cent.

Predominant crime, Violating Prohibition Law.

* TWELFTH JUDICIAL CIRCUIT.

Composed of the Counties of Coffee, Covington, Geneva, Houston and Pike.
R. H. Parks, Solicitor.

* No reports. Solicitor was often requested to furnish these reports, but has failed to do so.

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* THIRTEENTH JUDICIAL CIRCUIT.

Composed of the Counties of Baldwin, Mobile and Washington.
No Solicitor. No Criminal Cases.

FOURTEENTH JUDICIAL CIRCUIT.

Composed of the Counties of Walker and Winston.
Wm. B. Bankhead, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	17	8	1	8	---	---	---	---	---	8	---	---
Adultery and fornication	1	---	---	1	---	---	---	---	---	---	---	---
Assault	2	2	---	---	---	---	---	1	---	1	---	---
Assault and battery	19	11	---	7	1	---	---	---	---	11	---	---
Assault and battery with weapon	1	1	---	---	---	---	---	---	---	1	---	---
Assault, intent to murder	3	---	1	1	1	---	---	---	---	---	---	---
Attempt to commit a felony	1	---	---	1	---	---	---	---	---	---	---	---
Bastardy	1	1	---	---	---	---	---	---	---	1	---	---
Bigamy	1	---	---	1	---	---	---	---	---	---	---	---
Bribery	1	---	1	---	---	---	---	---	---	---	---	---
Burglary	3	---	---	2	1	---	---	---	---	---	---	---
Burglary and grand larceny	4	1	---	2	1	---	1	---	---	---	---	---
Concealed weapons	11	2	2	6	1	---	---	---	---	2	---	---
Defacing public buildings	1	1	---	---	---	---	---	---	---	1	---	---
Disturbing religious worship	2	1	---	1	---	---	---	---	---	1	---	---

FOURTEENTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Embezzlement	1	---	1	---	---	---	---	---	---	---	---	---
Failing to repair public road	1	---	---	1	---	---	---	---	---	---	---	---
Forgery, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Gaming	7	---	2	5	---	---	---	---	---	---	---	---
Giving liquor to minor	4	2	---	2	---	---	---	---	---	2	---	---
Injuring property	1	---	---	1	---	---	---	---	---	---	---	---
Illegal voting	2	---	---	2	---	---	---	---	---	---	---	---
Larceny, grand	11	3	2	6	---	---	3	---	---	---	---	---
Larceny, petit	5	2	3	---	---	---	---	---	---	2	---	---
Malicious mischief	1	---	1	---	---	---	---	---	---	---	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	1	---	---
Miscegenation	2	2	---	---	---	---	2	---	---	---	---	---
Murder, first degree	4	---	2	2	---	---	---	---	---	---	---	---
Murder, second degree	3	2	1	---	---	---	2	---	---	---	---	---
Public drunkenness	8	2	---	6	---	---	---	---	---	2	---	---
Rape	3	2	---	1	---	---	2	---	---	---	---	---
Seduction	3	---	---	3	---	---	---	---	---	---	---	---
Shooting into dwelling	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	1	---	1	---	---	---	---	---	---	---	---	---
Shooting into passenger train	1	1	---	---	---	---	1	---	---	---	---	---
Temporary use of property	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	1	1	---	---	---	---	---	---	---	1	---	---
Unlawful injury to animal	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	1	---	---	1	---	---	---	---	---	---	---	---
Violating speed law	1	1	---	---	---	---	---	---	---	1	---	---
Violating prohibition law	57	6	4	44	3	---	---	---	1	5	---	---
Violating Sunday law	1	---	---	---	1	---	---	---	---	---	---	---
Total	193	56	22	106	9	---	12	2	1	42	---	---

Percentage of convictions in cases disposed of, 29 per cent.

Predominant crime, Violating Prohibition Law.

FIFTEENTH JUDICIAL CIRCUIT.

Composed of the Counties of Autauga, Chilton and Elmore.
Hon. F. Loyd Tate, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	9	7	2							7		
Affray	4	1	1	2						1		
Allowing minor to play pool	4	1	1	2						1		
Arson, second degree	1	1					1					
Assault and battery	28	18	6	4				9		13		
Assault and battery with weapon	33	25	7	1				10		15		
Assault, intent to murder	22	17	3	1	1		6	11				
Assault, intent to ravish	1	1					1					
A. I. O. L.	8	6	1	1						6		
Bastardy	2			2								
Bigamy	1		1									
Burglary	9	6	2	1			5	1				
Burglary and grand larceny	10	7	3				5	2				
Carnal knowledge, girl under 12	1	1								1		
Concealed weapons	34	24	7	3				1		23		
Cruelty to animals	6	4	1	1						4		
Defacing public building	1	1								1		
Defamation	1			1								
Defaulting road hand	36	32	3	1						32		
Disturbing religious worship	8	5	2	1						5		
Disposing of mortgaged property	7	3	2	2						3		
Disturbing school	4	3	1							3		
Dynamiting stream	1		1									
Escape	3	1			2			1				

FIFTEENTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Failing to drive to the right	2	1	1	---	---	---	---	---	---	1	---	---
False pretense	11	7	2	2	---	---	---	2	---	5	---	---
Forgery, second degree	2	2	---	---	---	---	---	2	---	---	---	---
Gaming	14	10	4	---	---	---	---	---	---	10	---	---
Gaming on Sunday	17	13	---	2	2	---	---	---	---	13	---	---
Gaming in public place	2	---	2	---	---	---	---	---	---	---	---	---
Giving liquor to minor	1	---	1	---	---	---	---	---	---	---	---	---
Going back into possession of real estate	1	---	1	---	---	---	---	---	---	---	---	---
Injuring property	1	1	---	---	---	---	---	---	---	1	---	---
Incest	1	---	1	---	---	---	---	---	---	---	---	---
Larceny, grand	35	22	7	3	3	---	17	5	---	---	---	---
Larceny, petit	21	19	1	1	---	---	1	9	---	9	---	---
Larceny, grand, and receiving stolen goods	4	1	1	2	---	---	1	---	---	---	---	---
Mayhem	1	---	1	---	---	---	---	---	---	---	---	---
Manslaughter, first degree	4	3	1	---	---	---	2	1	---	---	---	---
Manslaughter, second degree	3	3	---	---	---	---	1	2	---	---	---	---
Moving personal property	1	1	---	---	---	---	---	---	---	1	---	---
Murder, first degree	15	7	6	1	1	---	3	4	---	---	---	---
Murder, second degree	17	12	3	1	1	---	12	---	---	---	---	---
Obstructing public road	3	3	---	---	---	---	---	---	---	3	---	---
Overseer, neglect of duty	5	1	3	1	---	---	---	---	---	1	---	---
Perjury	5	4	1	---	---	---	2	2	---	---	---	---
Presenting gun	3	---	1	2	---	---	---	---	---	---	---	---
Public drunkenness	16	11	2	3	---	---	---	1	---	10	---	---
Rape	6	3	1	---	2	---	1	2	---	---	---	---
Resisting officer	1	1	---	---	---	---	---	---	---	1	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Shooting across public road	2	1	---	---	1	---	---	---	---	1	---	---

FIFTEENTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Trading choking horse	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	11	8	1	2	---	---	---	---	---	8	---	---
Unlawfully riding on train	2	2	---	---	---	---	---	2	---	---	---	---
Vagrancy	2	1	1	---	---	---	---	---	---	1	---	---
Violating court contract	7	3	2	2	---	---	---	2	---	1	---	---
Violating game and fish law	2	2	---	---	---	---	---	2	---	---	---	---
Violating prohibition law	76	28	17	18	13	---	---	11	---	19	---	---
Violating Sunday law	1	1	---	---	---	---	---	---	---	1	---	---
Violating stock law	2	1	---	1	---	---	---	---	---	1	---	---
Total	533	337	105	65	26	---	58	82	---	203	---	---

Percentage of convictions in cases disposed of, 63 per cent.
Predominant crime, Violating Prohibition Law.

SIXTEENTH JUDICIAL CIRCUIT.

Composed of the Counties of Blount, Etowah and St. Clair.
Hon. Jas. A. Embry, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	39	29	1	9	---	---	---	---	---	29	---	---
Adultery and fornication	1	---	---	1	---	---	---	---	---	---	---	---
Affray	2	---	1	1	---	---	---	---	---	---	---	---
Assault and battery	24	20	3	1	---	---	---	---	---	20	---	---
Assault and battery with weapon	2	---	1	1	---	---	---	---	---	---	---	---
Assault, intent to ravish	1	1	---	---	---	---	1	---	---	---	---	---
Bastardy	1	1	---	---	---	---	---	---	---	1	---	---
Burglary	5	4	---	1	---	---	2	2	---	---	---	---
Concealed weapons	19	11	2	6	---	---	---	---	---	11	---	---
Cutting timber from land of another	1	---	---	1	---	---	---	---	---	---	---	---
Cruelty to animals	9	2	6	1	---	---	---	---	---	2	---	---
Defaulting road hand	5	3	1	1	---	---	---	---	---	3	---	---
Disturbing religious worship	5	4	1	---	---	---	---	---	---	4	---	---
Disposing of mortgaged property	2	---	---	2	---	---	---	---	---	---	---	---
Escape	1	---	---	1	---	---	---	---	---	---	---	---
Forgery, second degree	2	2	---	---	---	---	---	---	2	---	---	---
Gaming	13	2	---	11	---	---	---	---	---	2	---	---
Giving liquor to minor	4	2	---	2	---	---	---	---	---	2	---	---
Hauling on pike without license	8	2	---	6	---	---	---	---	---	2	---	---
Larceny, grand	5	2	1	2	---	---	2	---	---	---	---	---
Larceny, petit	11	7	2	2	---	---	---	1	---	6	---	---
Malicious mischief	2	---	---	2	---	---	---	---	---	---	---	---
Manslaughter, first degree	2	2	---	---	---	---	2	---	---	---	---	---

SIXTEENTH JUDICIAL CIRCUIT.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Moving personal property	1	---	1	---	---	---	---	---	---	---	---	---
Murder, first degree	3	3	---	---	---	---	3	---	---	---	---	---
Murder, second degree	5	5	---	---	---	---	5	---	---	---	---	---
Playing cards, public place	7	4	---	3	---	---	---	---	---	4	---	---
Practicing medicine without a license	2	---	---	2	---	---	---	---	---	---	---	---
Presenting gun	3	1	1	1	---	---	---	---	---	1	---	---
Public drunkenness	1	1	---	---	---	---	---	---	---	1	---	---
Rape	3	---	---	3	---	---	---	---	---	---	---	---
Resisting officer	1	---	---	1	---	---	---	---	---	---	---	---
Seduction	2	---	---	2	---	---	---	---	---	---	---	---
Selling pistol to minor	1	---	1	---	---	---	---	---	---	---	---	---
Shooting on Sunday	1	1	---	---	---	---	---	1	---	---	---	---
Trespass after warning	3	2	1	---	---	---	---	---	---	2	---	---
Unlawfully riding on train	1	1	---	---	---	---	---	1	---	---	---	---
Violating game and fish law	6	1	1	---	4	---	---	---	---	1	---	---
Violating prohibition law	101	60	8	30	3	---	---	25	---	38	---	---
Violating revenue law	1	---	---	1	---	---	---	---	---	---	---	---
Violating stock law	3	---	---	---	3	---	---	---	---	---	---	---
Total	309	173	32	94	10	---	15	38	---	131	---	---

Percentage of convictions in cases disposed of, 55 per cent.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF AUTAUGA COUNTY.
Fifteenth Judicial Circuit.

Hon. F. Loyd Tate, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	3	1	2	---	---	---	---	---	---	1	---	---
Affray	2	1	1	---	---	---	---	---	---	1	---	---
Allowing minor to play pool	2	---	---	2	---	---	---	---	---	---	---	---
Assault and battery	9	8	1	---	---	---	---	6	---	6	---	---
Assault and battery with weapon	8	8	---	---	---	---	---	6	---	2	---	---
Assault, intent to murder	10	9	1	---	---	---	6	3	---	---	---	---
A. I. O. L.	2	2	---	---	---	---	---	---	---	2	---	---
Bastardy	2	---	---	2	---	---	---	---	---	---	---	---
Burglary	3	1	2	---	---	---	---	1	---	---	---	---
Burglary and grand larceny	4	2	2	---	---	---	1	1	---	---	---	---
Carnal knowledge, girl under 12	1	1	---	---	---	---	---	---	---	1	---	---
Concealed weapons	16	12	3	1	---	---	---	---	---	12	---	---
Defamation	1	---	---	1	---	---	---	---	---	---	---	---
Defaulting road hand	34	30	3	1	---	---	---	---	---	30	---	---
Disturbing religious worship	1	1	---	---	---	---	---	---	---	1	---	---
Disposing of mortgaged property	3	1	2	---	---	---	---	---	---	1	---	---
Escape	3	1	---	---	2	---	---	1	---	---	---	---
Failing to drive to the right	1	---	1	---	---	---	---	---	---	---	---	---
False pretense	5	4	1	---	---	---	---	2	---	3	---	---
Gaming	6	2	4	---	---	---	---	---	---	2	---	---
Injuring property	1	1	---	---	---	---	---	---	---	1	---	---
Larceny, grand	19	10	4	2	3	---	6	4	---	---	---	---
Larceny, petit	7	7	---	---	---	---	---	4	---	3	---	---
Manslaughter, first degree	1	---	1	---	---	---	---	---	---	---	---	---

CIRCUIT COURT OF AUTAUGA COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Murder, first degree	8	6	1	1	---	---	2	4	---	---	---	---
Murder, second degree	3	2	1	---	---	---	2	---	---	---	---	---
Obstructing public road	1	1	---	---	---	---	---	---	---	1	---	---
Perjury	1	---	1	---	---	---	---	---	---	---	---	---
Presenting gun	1	---	1	---	---	---	---	---	---	---	---	---
Public drunkenness	3	2	---	1	---	---	---	---	---	2	---	---
Rape	2	---	---	---	2	---	---	---	---	---	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Shooting across public road	1	---	1	---	---	---	---	---	---	---	---	---
Trespass after warning	8	7	1	---	---	---	---	---	---	7	---	---
Vagrancy	2	1	1	---	---	---	---	---	---	1	---	---
Violating court contract	4	1	1	1	1	---	---	1	---	---	---	---
Violating game and fish law	2	2	---	---	---	---	---	2	---	---	---	---
Violating prohibition law	14	9	4	1	---	---	---	5	---	6	---	---
Total	196	134	40	14	8	---	17	41	---	83	---	---

Percentage of convictions in cases disposed of, 68.
Predominant crime, Grand Larceny.

CIRCUIT COURT OF BALDWIN COUNTY.
Second Judicial Circuit.

Hon. C. R. Bricken, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery	4	4	---	---	---	---	---	---	---	4	---	---
Assault and battery with weapon	4	4	---	---	---	---	---	---	---	4	---	---
Assault, intent to murder	3	2	1	---	---	---	2	---	---	---	---	---
Burglary	3	3	---	---	---	---	---	3	---	---	---	---
Concealed weapons	3	2	---	1	---	---	---	---	---	2	---	---
Contempt	2	2	---	---	---	---	---	---	---	2	---	---
Disturbing religious worship	2	2	---	---	---	---	---	---	---	2	---	---
Forgery, first degree	3	2	1	---	---	---	2	---	---	---	---	---
Larceny, grand	3	3	---	---	---	---	---	3	---	---	---	---
Larceny, petit	3	2	---	1	---	---	---	1	---	1	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	4	2	1	---	1	1	1	---	---	---	---	---
Murder, second degree	3	3	---	---	---	---	3	---	---	---	---	---
Public drunkenness	4	2	---	2	---	---	---	---	---	2	---	---
Rape	1	1	---	---	---	---	1	---	---	---	---	---
Resisting officer	2	2	---	---	---	---	---	---	---	2	---	---
Temporary use of property	1	1	---	---	---	---	---	---	---	1	---	---
Violating prohibition law	10	9	1	---	---	---	---	2	---	7	---	---
Total	57	48	4	4	1	1	10	9	---	28	---	---

Percentage of convictions in cases disposed of, 84.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF BARBOUR COUNTY.

Third Judicial Circuit.

H. B. Steagall, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	5	5	---	---	---	---	---	---	---	5	---	---
Assault and battery	32	28	2	2	---	---	---	4	1	24	---	---
Assault, intent to murder	12	1	4	7	---	---	1	---	---	---	---	---
Burglary	10	7	---	3	---	---	7	---	---	---	---	---
Concealed weapons	7	5	---	2	---	---	---	---	---	5	---	---
Disposing of property under lien	3	3	---	---	---	---	---	1	---	2	---	---
Embezzlement	1	1	---	---	---	---	1	---	---	---	---	---
False pretense	3	---	1	2	---	---	---	---	---	---	---	---
Gaming on Sunday	1	---	1	---	---	---	---	---	---	---	---	---
Larceny, grand	6	3	1	2	---	---	3	---	---	---	---	---
Larceny, petit	4	4	---	---	---	---	---	---	4	4	---	---
Murder, first degree	2	1	1	---	---	---	1	---	---	---	---	---
Murder, second degree	3	1	1	1	---	---	1	---	---	---	---	---
Obstructing public road	1	---	1	---	---	---	---	---	---	---	---	---
Presenting gun	1	1	---	---	---	---	---	---	---	1	---	---
Public drunkenness	3	3	---	---	---	---	---	3	---	3	---	---
Selling mortgaged property	3	---	---	3	---	---	---	---	---	---	---	---
Violating prohibition law	16	14	2	---	---	---	---	8	---	13	---	---
Violating revenue law	3	2	---	1	---	---	---	---	---	2	---	---
Violating written contract	1	---	---	1	---	---	---	---	---	---	---	---
Total	118	80	14	24	---	---	14	16	5	60	---	---

Percentage of convictions in cases disposed of, 68.

Predominant crime, Assault and Battery.

CIRCUIT COURT OF BIBB COUNTY.

J. F. Thompson, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Arson, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Arson, third degree	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery with weapon	14	13	---	1	---	---	---	4	---	9	---	---
Assault, intent to murder	4	2	---	2	---	---	---	2	---	---	---	---
Burglary	12	9	1	2	---	---	1	8	---	---	---	---
Carnal knowledge, girl under 12	1	1	---	---	---	---	1	---	---	---	---	---
Escape	1	1	---	---	---	---	---	1	---	---	---	---
False pretense	3	2	---	1	---	---	2	---	---	---	---	---
Illegal voting	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	14	13	1	---	---	---	2	11	---	---	---	---
Larceny, petit	12	12	---	---	---	---	---	3	---	9	---	---
Manslaughter, first degree	2	2	---	---	---	---	1	1	---	---	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	---	---	1	---	---
Murder, first degree	4	2	1	1	---	1	1	---	---	---	---	---
Murder, second degree	1	---	1	---	---	---	---	---	---	---	---	---
Rape	1	1	---	---	---	---	1	---	---	---	---	---
Robbery	2	---	---	2	---	---	---	---	---	---	---	---
Violating prohibition law	120	92	4	24	---	---	---	19	---	73	---	---
Total	195	153	8	34	---	1	9	50	---	93	---	---

Percentage of convictions in cases disposed of, 77.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF BLOUNT COUNTY.

Sixteenth Judicial Circuit.

Hon. Jas. A. Embry, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	18	14	1	3	---	---	---	---	---	14	---	---
Affray	2	---	1	1	---	---	---	---	---	---	---	---
Assault and battery	13	9	3	1	---	---	---	---	---	9	---	---
Assault, intent to ravish	1	1	---	---	---	---	1	---	---	---	---	---
Bastardy	1	1	---	---	---	---	---	---	---	1	---	---
Burglary	5	4	---	1	---	---	2	2	---	---	---	---
Concealed weapons	11	8	1	2	---	---	---	---	---	8	---	---
Cutting timber from land of another	1	---	1	---	---	---	---	---	---	---	---	---
Cruelty to animals	4	1	2	1	---	---	---	---	---	1	---	---
Defaulting road hand	4	3	---	---	1	---	---	---	---	3	---	---
Disturbing religious worship	3	3	---	---	---	---	---	---	---	3	---	---
Forgery, second degree	2	2	---	---	---	---	---	---	2	---	---	---
Gaming	5	1	---	4	---	---	---	---	---	1	---	---
Giving liquor to minor	1	1	---	---	---	---	---	---	---	1	---	---
Larceny, grand	1	1	---	---	---	---	1	---	---	---	---	---
Larceny, petit	2	1	---	1	---	---	---	---	---	1	---	---
Murder, second degree	3	3	---	---	---	---	3	---	---	---	---	---
Playing cards, public place	7	4	---	3	---	---	---	---	---	4	---	---
Presenting gun	2	---	1	1	---	---	---	---	---	---	---	---
Public drunkenness	1	1	---	---	---	---	---	---	---	1	---	---
Rape	3	---	---	3	---	---	---	---	---	---	---	---
Resisting officer	1	---	---	1	---	---	---	---	---	---	---	---
Unlawfully riding on train	1	1	---	---	---	---	---	1	---	---	---	---
Violating prohibition law	23	13	3	7	---	---	---	10	---	3	---	---
Violating revenue law	1	---	1	---	---	---	---	---	---	---	---	---
Total	116	72	14	29	1	---	7	13	2	50	---	---

Percentage of convictions in cases disposed of, 62.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF BULLOCK COUNTY.
Third Judicial Circuit.

H. B. Steagall, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	2	2								2		
Adultery and fornication	1			1								
Assault	1	1						1				
Assault and battery	20	20						7		13		
Assault and battery with weapon	6	4		2				4				
Assault, intent to murder	7	3		4			2	1				
Attempt to commit a felony	1	1								1		
Burglary	8	6		2			3	3				
Concealed weapons	15	9	1	5				7		2		
Crime against nature	1		1									
Destroying fence	1			1								
Embezzlement	1	1						1				
False pretense	1				1							
Gaming	2	1		1						1		
Larceny, grand	9	7		2			3	4				
Larceny, petit	18	8	2	8				1	5	7		
Manslaughter, first degree	3	3					3					
Manslaughter, second degree	1	1						1				
Murder, first degree	4	2	1	1			2					
Murder, second degree	6	4		2			4					
Obstructing railroad	1		1									
Presenting gun	1	1								1		
Public drunkenness	2	2								2		
Selling mortgaged property	4	3		1								
Vagrancy	2	1	1					1				

CIRCUIT COURT OF BULLOCK COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Violating court contract	2	1	---	1	---	---	---	---	---	1	---	---
Violating prohibition law	26	17	4	3	2	---	---	15	---	4	---	---
Violating Sunday law	1	---	---	1	---	---	---	---	---	---	---	---
Violating written contract	1	---	---	1	---	---	---	---	---	---	---	---
Total	148	98	11	36	3	---	17	46	5	37	---	---

Percentage of convictions in cases disposed of, 66.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF BUTLER COUNTY.
Second Judicial Circuit.

Hon. C. R. Bricken, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	4	3	---	1	---	---	---	---	---	3	---	---
Assault and battery	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery with weapon	14	14	---	---	---	---	---	2	---	12	---	---
Assault, intent to murder	4	2	2	---	---	---	---	2	---	---	---	---
Assault, intent to ravish	1	---	---	1	---	---	---	---	---	---	---	---
Burglary	9	8	1	---	---	---	2	6	---	---	---	---
Concealed weapons	23	21	1	1	---	---	---	8	---	13	---	---
Defamation	1	1	---	---	---	---	---	---	---	1	---	---
Defaulting road hand	2	2	---	---	---	---	---	---	---	2	---	---
Disturbing religious worship	1	1	---	---	---	---	---	---	---	1	---	---
Forgery, second degree	1	1	---	---	---	---	1	---	---	---	---	---
Gaming	2	2	---	---	---	---	---	---	---	2	---	---
Larceny, grand	11	11	---	---	---	---	1	10	---	---	---	---
Larceny, petit	9	9	---	---	---	---	---	3	---	6	---	---
Manslaughter, first degree	1	1	---	---	---	---	---	1	---	---	---	---
Murder, second degree	1	1	---	---	---	---	1	---	---	---	---	---
Presenting gun	1	1	---	---	---	---	---	---	---	1	---	---
Public drunkenness	2	2	---	---	---	---	---	---	---	2	---	---
Shooting into dwelling	1	1	---	---	---	---	---	---	---	1	---	---
Shooting across public road	1	1	---	---	---	---	---	---	---	1	---	---
Sodomy	1	1	---	---	---	---	1	---	---	---	---	---
Unlawfully riding on train	1	1	---	---	---	---	---	1	---	---	---	---
Violating prohibition law	25	24	1	---	---	---	---	20	---	4	---	---
Violating written contract	1	1	---	---	---	---	---	1	---	---	---	---
Violating pistol law	1	1	---	---	---	---	---	1	---	---	---	---
Total	119	111	5	3	---	---	6	55	---	50	---	---

Percentage of convictions in cases disposed of, 93.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF CHAMBERS COUNTY.
Fifth Judicial Circuit.

Hon. W. B. Bowling, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	8	4	---	4	---	---	---	---	---	4	---	---
Affray	1	---	---	1	---	---	---	---	---	---	---	---
Arson, second degree	1	1	---	---	---	---	1	---	---	---	---	---
Assault	3	3	---	---	---	---	---	---	---	3	---	---
Assault and battery	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery with weapon	20	15	---	4	1	---	---	---	---	15	---	---
Assault, intent to murder	7	2	2	3	---	---	2	---	---	---	---	---
Assault, intent to ravish	1	---	1	---	---	---	---	---	---	---	---	---
Burglary	5	4	---	---	1	---	4	---	---	---	---	---
Burglary and grand larceny	1	1	---	---	---	---	1	---	---	---	---	---
Concealed weapons	21	18	---	3	---	---	---	---	---	18	---	---
Disturbing religious worship	7	6	---	---	1	---	---	---	---	6	---	---
Disturbing public assembly	1	1	---	---	---	---	---	---	---	1	---	---
Escape	1	1	---	---	---	---	---	---	---	1	---	---
Gaming	2	1	---	1	---	---	---	---	---	1	---	---
Larceny, grand	1	1	---	---	---	---	1	---	---	---	---	---
Larceny, petit	6	6	---	---	---	---	---	---	---	6	---	---
Manslaughter, first degree	3	3	---	---	---	---	3	---	---	---	---	---
Murder, first degree	3	2	---	1	---	---	2	---	---	---	---	---
Murder, second degree	8	7	1	---	---	---	7	---	---	---	---	---
Presenting gun	3	1	---	2	---	---	---	---	---	1	---	---
Public drunkenness	3	3	---	---	---	---	---	---	---	3	---	---
Selling on Sunday	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	2	1	1	---	---	---	---	---	---	1	---	---
Shooting across public road	3	2	1	---	---	---	---	---	---	2	---	---

CIRCUIT COURT OF CHAMBERS COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Temporary use of property	1	---	---	1	---	---	---	---	---	---	---	---
Vagrancy	2	1	1	---	---	---	---	---	---	1	---	---
Violating prohibition law	31	27	2	1	1	---	---	13	---	27	---	---
Violating revenue law	1	---	---	1	---	---	---	---	---	---	---	---
Violating written contract	1	---	---	1	---	---	---	---	---	---	---	---
Total	149	112	9	24	4	---	21	13	---	91	---	---

Percentage of convictions in cases disposed of, 75.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF CHEROKEE COUNTY.

C. C. Appleton, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	34	14	1	18	1					14		
Adultery and fornication	2	1	1							1		
Aiding escape	1	1								1		
Assault	7	4	2	1						4		
Assault and battery	8	3		5						3		
Assault and battery with weapon	8	6	1	1					1	6		
Assault, intent to murder	3	1		2			1					
Assault, intent to ravish	1	1					1					
Bigamy	1			1								
Burglary	1			1								
Concealed weapons	27	11	5	7	4			3		8		
Defamation	1	1								1		
Disturbing religious worship	12	4		8						4		
Disturbing females	2	1		1						1		
Embezzlement	1			1								
Failing to repair public road	3	1	2							1		
Gaming	6	5		1						5		
Giving liquor to minor	2	1		1						1		
Incest	1			1								
Larceny, petit	3	1		2					1	1		
Manslaughter, second degree	1	1						1				
Miscegenation	1		1									
Murder, second degree	3	2	1				2					
Obstructing public road	4		3		1							
Public drunkenness	44	25	5	14						25		
Rape	2		1	1								

CIRCUIT COURT OF CHEROKEE COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Selling mortgaged property	1	---	---	1	---	---	---	---	---	---	---	---
Shooting across public road	1	1	---	---	---	---	---	---	---	1	---	---
Temporary use of property	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	2	1	1	---	---	---	---	---	---	1	---	---
Vagrancy	1	---	---	1	---	---	---	---	---	---	---	---
Violating prohibition law	51	21	10	20	---	---	---	11	1	14	---	---
Violating stock law	4	3	1	---	---	---	---	---	---	3	---	---
Total	240	111	35	88	6	---	4	15	3	96	---	---

Percentage of convictions in cases disposed of, 46.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF CHILTON COUNTY.
Fifteenth Judicial Circuit.

Hon. F. Loyd Tate, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	2	2								2		
Affray	2			2								
Allowing minor to play pool	2	1	1							1		
Arson, second degree	1	1					1					
Assault and battery	9	7	2					3		4		
Assault and battery with weapon	10	6	4					1		5		
Assault, intent to murder	5	3		1	1			3				
Assault, intent to ravish	1	1					1					
A. I. O. L.	6	4	1	1						4		
Bigamy	1		1									
Burglary	4	4					4					
Burglary and grand larceny	3	2	1				2					
Concealed weapons	7	4	2	1						4		
Cruelty to animals	4	3	1							3		
Defaulting road hand	1	1								1		
Disturbing religious worship	4	1	2	1						1		
Disposing of mortgaged property	1	1								1		
Disturbing school	3	3								3		
Dynamiting stream	1		1									
False pretense	2	2						1		1		
Gaming on Sunday	8	8								8		
Gaming in public place	2		2									
Giving liquor to minor	1		1									
Incest	1		1									
Larceny, grand	9	7	1	1			6	1				

CIRCUIT COURT OF CHILTON COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Larceny, petit	5	4	1	---	---	---	1	2	---	1	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	5	1	4	---	---	---	1	---	---	---	---	---
Murder, second degree	3	2	1	---	---	---	2	---	---	---	---	---
Obstructing public road	2	2	---	---	---	---	---	---	---	2	---	---
Overseer, neglect of duty	5	1	3	1	---	---	---	---	---	1	---	---
Perjury	4	4	---	---	---	---	2	2	---	---	---	---
Presenting gun	1	---	---	1	---	---	---	---	---	---	---	---
Public drunkenness	10	6	2	2	---	---	---	1	---	5	---	---
Rape	1	---	1	---	---	---	---	---	---	---	---	---
Resisting officer	1	1	---	---	---	---	---	---	---	-	---	---
Trading choking horse	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	1	---	---	1	---	---	---	---	---	---	---	---
Unlawfully riding on train	2	2	---	---	---	---	---	2	---	---	---	---
Violating prohibition law	25	9	6	3	7	---	---	4	---	5	---	---
Total	157	95	39	15	8	---	21	20	---	54	---	---

Percentage of convictions in cases disposed of, 60.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF CHOCTAW COUNTY.

Jno. McDuffie, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Assault and battery with weapon	7	7	---	---	---	---	---	---	---	7	---	---
Assault, intent to murder	10	3	4	3	---	---	2	1	---	---	---	---
Attempt at poison	1	---	---	1	---	---	---	---	---	---	---	---
Bastardy	1	1	---	---	---	---	---	---	---	1	---	---
Burglary	1	---	1	---	---	---	---	---	---	---	---	---
Doing business without license	6	---	---	6	---	---	---	---	---	---	---	---
Larceny, grand	1	---	1	---	---	---	---	---	---	---	---	---
Larceny, petit	3	3	---	---	---	---	---	---	---	3	---	---
Manslaughter, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Murder, first degree	2	---	1	1	---	---	---	---	---	---	---	---
Murder, second degree	4	3	1	---	---	---	3	---	---	---	---	---
Rape	1	1	---	---	---	---	1	---	---	---	---	---
Robbery	2	---	2	---	---	---	---	---	---	---	---	---
Violating prohibition law	27	12	4	5	6	---	---	---	---	12	---	---
Total	68	32	14	16	6	---	8	1	---	23	---	---

Percentage of convictions in cases disposed of, 47

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF CLARKE COUNTY.

Jno. McDuffie, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Arson, second degree	1	1	---	---	---	---	1	---	---	---	---	---
Assault and battery	2	2	---	---	---	---	---	---	---	2	---	---
Assault and battery with weapon	5	5	---	---	---	---	---	1	---	4	---	---
Assault, intent to murder	4	2	1	1	---	---	2	---	---	---	---	---
Assault, intent to ravish	3	1	---	2	---	---	1	---	---	---	---	---
Attempt at poison	1	1	---	---	---	---	---	1	---	---	---	---
Bastardy	1	1	---	---	---	---	---	---	---	1	---	---
Bigamy	1	1	---	---	---	---	1	---	---	---	---	---
Burglary	7	5	1	1	---	---	2	2	---	1	---	---
Burglary and grand larceny	3	3	---	---	---	---	1	---	---	3	---	---
Embezzlement	2	2	---	---	---	---	2	---	---	---	---	---
False pretense	2	1	1	---	---	---	---	1	---	---	---	---
Falsely impersonating another man	1	1	---	---	---	---	---	---	---	1	---	---
Forgery, first degree	1	---	---	---	1	---	---	---	---	---	---	---
Larceny, grand	21	16	2	3	---	---	4	9	---	3	---	---
Larceny, petit	13	13	---	---	---	---	---	2	---	11	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	2	1	1	---	---	1	---	---	---	---	---	---
Murder, second degree	6	5	1	---	---	---	5	---	---	---	---	---
Rape	1	1	---	---	---	1	---	---	---	---	---	---
Total	78	63	7	7	1	2	20	16	---	26	---	---

Percentage of convictions in cases disposed of, 80.

Predominant crime, Grand Larceny.

CIRCUIT COURT OF CLEBURNE COUNTY.

Seventh Judicial Circuit.

Chas. S. Cornelius, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	13	12	1	---	---	---	---	---	---	12	---	---
Adultery and fornication	1	---	---	1	---	---	---	---	---	---	---	---
Arson, second degree	1	---	1	---	---	---	---	---	---	---	---	---
Assault and battery	13	7	3	3	---	---	---	---	---	7	---	---
Assault and battery with weapon	7	6	1	---	---	---	---	---	---	7	---	---
Assault, intent to murder	3	---	---	2	1	---	---	---	---	---	---	---
Bigamy	1	1	---	---	---	---	1	---	---	---	---	---
Bringing stolen property into State	3	3	---	---	---	---	3	---	---	---	---	---
Burglary	1	---	---	1	---	---	---	---	---	---	---	---
Burglary and grand larceny	3	2	1	---	---	---	2	---	---	---	---	---
Carnal knowledge, girl under 12	1	---	---	1	---	---	---	---	---	---	---	---
Concealed weapons	18	11	4	3	---	---	---	1	---	10	---	---
Defacing public buildings	1	1	---	---	---	---	---	---	---	1	---	---
Disturbing religious worship	4	3	1	---	---	---	---	---	---	3	---	---
Failing to repair public road	1	1	---	---	---	---	---	---	---	1	---	---
Indecent exposure of person	3	2	1	---	---	---	---	---	---	2	---	---
Larceny, grand	1	1	---	---	---	---	1	---	---	---	---	---
Larceny, petit	9	7	---	2	---	---	---	2	5	4	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	---	1	1	---	---
Miscegenation	2	---	---	2	---	---	---	---	---	---	---	---
Overseer, neglect of duty	1	1	---	---	---	---	---	---	---	1	---	---
Presenting gun	4	2	1	1	---	---	---	---	---	2	---	---
Public drunkenness	23	17	2	4	---	---	---	---	---	17	---	---

CIRCUIT COURT OF CLEBURNE COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Rape	1	---	1	---	---	---	---	---	---	---	---	---
Selling mortgaged property	7	5	2	---	---	---	---	---	3	2	---	---
Trespass after warning	1	---	1	---	---	---	---	---	---	---	---	---
Violating game and fish law	5	5	---	---	---	---	---	---	---	5	---	---
Violating prohibition law	32	11	9	11	1	---	---	1	---	10	---	---
Violating written contract	1	1	---	---	---	---	---	1	---	1	---	---
Total	162	100	29	31	2	---	7	5	9	85	---	---

Percentage of convictions in cases disposed of, 61½.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF COLBERT COUNTY.
Eleventh Judicial Circuit.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	5	1	---	4	---	---	---	---	---	1	---	---
Arson, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Assault and battery	2	1	---	1	---	---	---	---	---	1	---	---
Assault and battery with weapon	8	7	---	1	---	---	---	2	---	5	---	---
Assault, intent to murder	5	4	1	---	---	---	3	1	---	---	---	---
Attempt at burglary	1	1	---	---	---	---	---	---	---	1	---	---
Burglary	8	4	3	1	---	---	3	1	---	---	---	---
Concealed weapons	9	3	---	6	---	---	---	2	---	1	---	---
Defamation	1	---	---	1	---	---	---	---	---	---	---	---
Defaulting road hand	2	1	---	1	---	---	---	---	---	1	---	---
Embezzlement	1	---	1	---	---	---	---	---	---	---	---	---
False pretense	2	2	---	---	---	---	---	1	---	1	---	---
Forgery, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Gaming	3	3	---	---	---	---	---	---	---	3	---	---
Keeping gaming table	2	---	---	2	---	---	---	---	---	---	---	---
Larceny, grand	20	16	2	2	---	---	9	7	---	---	---	---
Larceny, petit	5	5	---	---	---	---	---	4	1	---	---	---
Malicious mischief	1	---	1	---	---	---	---	---	---	---	---	---
Manslaughter, first degree	4	4	---	---	---	---	4	---	---	---	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Murder, first degree	7	5	2	---	---	---	5	---	---	---	---	---
Murder, second degree	3	2	1	---	---	---	2	---	---	---	---	---
Playing cards, public place	1	1	---	---	---	---	---	---	---	1	---	---
Public drunkenness	9	7	---	2	---	---	---	---	---	7	---	---
Robbery	3	3	---	---	---	---	3	---	---	---	---	---
Temporary use of property	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	1	---	1	---	---	---	---	---	---	---	---	---
Vagrancy	2	---	---	2	---	---	---	---	---	---	---	---
Violating prohibition law	77	40	1	36	---	---	---	8	---	34	---	---
Total	188	116	13	59	---	---	33	27	1	57	---	---

Percentage of convictions in cases disposed of, 62.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF CONECUH COUNTY.
Second Judicial Circuit.

Hon. C. R. Bricken, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	8	8	---	---	---	---	---	2	---	6	---	---
Assault	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery with weapon	13	12	---	1	---	---	---	3	---	9	---	---
Burglary	1	1	---	---	---	---	1	---	---	---	---	---
Burglary and grand larceny	2	2	---	---	---	---	---	2	---	---	---	---
Concealed weapons	12	12	---	---	---	---	---	5	---	7	---	---
Cruelty to animals	2	2	---	---	---	---	---	---	---	2	---	---
Disturbing religious worship	1	1	---	---	---	---	---	---	---	1	---	---
Murder, first degree	3	2	1	---	---	---	2	---	---	---	---	---
Murder, second degree	2	2	---	---	---	---	2	---	---	---	---	---
Public drunkenness	2	2	---	---	---	---	---	---	---	2	---	---
Robbery	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	3	3	---	---	---	---	---	1	---	2	---	---
Violating prohibition law	14	10	---	4	---	---	---	4	---	6	---	---
Total	72	65	1	6	---	---	5	19	---	41	---	---

Percentage of convictions in cases disposed of, 90.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF COOSA COUNTY.
Fifth Judicial Circuit.

Hon. W. B. Bowling, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	8	5	---	3	---	---	---	---	---	5	---	---
Adultery and fornication	1	---	1	---	---	---	---	---	---	---	---	---
Affray	2	2	---	---	---	---	---	---	---	2	---	---
Assault and battery	6	6	---	---	---	---	---	---	---	6	---	---
Assault and battery with weapon	5	5	---	---	---	---	---	---	---	5	---	---
Assault, intent to murder	1	---	---	---	1	---	---	---	---	---	---	---
Burglary	1	1	---	---	---	---	1	---	---	---	---	---
Burglary and grand larceny	2	2	---	---	---	---	2	---	---	---	---	---
Concealed weapons	3	1	1	---	1	---	---	---	---	1	---	---
Cruelty to animals	1	1	---	---	---	---	---	---	---	1	---	---
Defaulting road hand	4	1	3	---	---	---	---	---	---	1	---	---
Disturbing religious worship	2	2	---	---	---	---	---	---	---	2	---	---
Dynamiting stream	2	2	---	---	---	---	---	---	---	2	---	---
Embezzlement	3	1	1	1	---	---	1	---	---	---	---	---
False pretense	1	---	---	---	1	---	---	---	---	---	---	---
Gaming	10	9	---	1	---	---	---	---	---	9	---	---
Larceny, petit	9	8	---	1	---	---	---	1	---	7	---	---
Manslaughter, first degree	3	3	---	---	---	---	3	---	---	---	---	---
Murder, first degree	3	2	1	---	---	---	2	---	---	---	---	---
Murder, second degree	5	4	1	---	---	---	4	---	---	---	---	---
Presenting gun	2	1	---	1	---	---	---	---	---	1	---	---
Public drunkenness	4	4	---	---	---	---	---	---	---	4	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Shooting into dwelling	1	1	---	---	---	---	---	---	---	1	---	---
Selling mortgaged property	1	1	---	---	---	---	---	---	---	1	---	---

CIRCUIT COURT OF COOSA COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Vagrancy	3	3	---	---	---	---	---	---	---	3	---	---
Violating prohibition law	8	6	---	2	---	---	---	2	---	4	---	---
Violating Sunday law	7	7	---	---	---	---	---	---	---	7	---	---
Violating written contract	2	1	---	1	---	---	---	---	---	1	---	---
Total	101	79	8	11	3	---	13	3	---	63	---	---

Percentage of convictions in cases disposed of, 70.

Predominant crimes, Gaming and Violating Prohibition Law.

CIRCUIT COURT OF CRENSHAW COUNTY.

Second Judicial Circuit.

Hon. C. R. Bricken, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	12	12	---	---	---	---	---	---	---	12	---	---
Adultery and fornication	1	1	---	---	---	---	---	1	---	---	---	---
Assault and battery	2	2	---	---	---	---	---	---	---	2	---	---
Assault and battery with weapon	17	17	---	---	---	---	---	1	---	16	---	---
Assault, intent to murder	10	9	---	1	---	---	9	---	---	---	---	---
Concealed weapons	12	12	---	---	---	---	---	2	---	10	---	---
Disturbing females	2	2	---	---	---	---	---	---	---	2	---	---
False pretense	1	1	---	---	---	---	---	---	---	1	---	---
Gaming	2	1	---	1	---	---	---	---	---	1	---	---
Larceny, grand	2	1	1	---	---	---	1	---	---	---	---	---
Larceny, petit	5	5	---	---	---	---	---	---	---	5	---	---
Malicious mischief	1	1	---	---	---	---	---	---	---	1	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Murder, second degree	6	6	---	---	---	---	5	1	---	---	---	---
Practicing medicine without a license	1	1	---	---	---	---	---	---	---	1	---	---
Presenting gun	1	1	---	---	---	---	---	1	---	---	---	---
Public drunkenness	14	12	---	2	---	---	---	---	---	12	---	---
Shooting into dwelling	1	1	---	---	---	---	---	---	---	1	---	---
Selling mortgaged property	2	1	---	1	---	---	---	---	---	1	---	---
Sodomy	1	1	---	---	---	---	---	1	---	---	---	---
Trespass after warning	2	2	---	---	---	---	---	---	---	2	---	---
Violating prohibition law	10	8	1	1	---	---	---	---	---	8	---	---
Violating Sunday law	16	15	---	1	---	---	---	---	---	15	---	---
Violating pistol law	3	3	---	---	---	---	---	---	---	3	---	---
Total	127	118	2	7	---	---	18	7	---	93	---	---

Percentage of convictions in cases disposed of, 92.

Predominant crime, Assault and Battery with Weapon.

CIRCUIT COURT OF CALHOUN COUNTY.

Eighth Judicial Circuit.

Hon. D. C. Almon, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Arson, first degree	3	---	2	1	---	---	---	---	---	---	---	---
Assault	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery with weapon	4	4	---	---	---	---	---	---	---	4	---	---
Assault, intent to ravish	1	---	---	1	---	---	---	---	---	---	---	---
Attempt at larceny	1	---	---	1	---	---	---	---	---	---	---	---
Burglary	5	5	---	---	---	---	*4	---	---	---	---	---
False pretense	1	---	1	---	---	---	---	---	---	---	---	---
Forgery, first degree	2	---	---	2	---	---	---	---	---	---	---	---
Larceny, grand	5	4	---	1	---	---	4	---	---	---	---	---
Larceny, petit	1	1	---	---	---	---	---	1	---	---	---	---
Manslaughter, first degree	3	3	---	---	---	---	3	---	---	---	---	---
Manslaughter, second degree	2	2	---	---	---	---	2	---	---	---	---	---
Murder, first degree	4	3	---	1	---	---	3	---	---	---	---	---
Obstructing railroad	1	1	---	---	---	---	1	---	---	---	---	---
Perjury	2	---	---	2	---	---	---	---	---	---	---	---
Rape	1	---	---	1	---	---	---	---	---	---	---	---
Violating prohibition law	45	24	2	19	---	---	---	---	---	24	---	---
Total	83	49	5	29	---	---	17	1	---	30	---	---

* One sentenced to Reform School.

Percentage of convictions in cases disposed of, 55.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF DALE COUNTY.
Third Judicial Circuit.

H. B. Steagall, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	11	8	---	3	---	---	---	---	---	8	---	---
Assault and battery	24	17	3	4	---	---	---	3	---	14	---	---
Assault, intent to murder	4	2	---	2	---	---	2	---	---	---	---	---
Bastardy	4	1	---	3	---	---	---	---	---	1	---	---
Burglary	3	3	---	---	---	---	2	1	---	---	---	---
Concealed weapons	19	11	4	4	---	---	---	4	---	17	---	---
Crime against nature	1	---	---	1	---	---	---	---	---	---	---	---
Cruelty to animals	2	1	1	---	---	---	---	---	---	1	---	---
Destroying fence	1	---	---	1	---	---	---	---	---	---	---	---
Embezzlement	6	1	1	4	---	---	---	1	---	1	---	---
Enticing labor	1	1	---	---	---	---	---	---	---	1	---	---
Failing to repair public road	3	1	---	2	---	---	---	---	---	1	---	---
False pretense	5	2	---	3	---	---	---	---	---	2	---	---
False impersonation	1	---	---	1	---	---	---	---	---	---	---	---
Forgery, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Incest	1	---	1	---	---	---	---	---	---	---	---	---
Larceny, grand	3	---	1	2	---	---	---	---	---	---	---	---
Larceny, petit	5	4	---	1	---	---	---	2	2	2	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Murder, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Murder, second degree	2	2	---	---	---	---	2	---	---	---	---	---
Perjury	2	1	---	1	---	---	1	---	---	---	---	---
Practicing medicine without a license	2	---	---	2	---	---	---	---	---	---	---	---
Presenting gun	2	2	---	---	---	---	---	---	---	2	---	---

CIRCUIT COURT OF DALE COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Public drunkenness	12	8	2	2	---	---	---	---	---	8	---	---
Receiving stolen property	1	---	1	---	---	---	---	---	---	---	---	---
Removing property under lien	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	4	2	---	2	---	---	---	---	---	2	---	---
Shooting across public road	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	2	1	---	1	---	---	---	---	---	1	---	---
Violating court contract	1	---	---	1	---	---	---	---	---	---	---	---
Violating game and fish law	4	4	---	---	---	---	---	---	---	4	---	---
Violating prohibition law	32	20	2	8	2	---	---	20	---	4	---	---
Violating Sunday law	6	4	2	---	---	---	---	---	---	4	---	---
Violating stock law	3	1	1	1	---	---	---	---	---	1	---	---
Total	174	102	19	51	2	---	10	32	2	65	---	---

Percentage of convictions in cases disposed of, 58.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF DALLAS COUNTY.

J. F. Thompson, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Assault and battery	9	2	---	3	---	---	---	1	---	1	---	---
Assault and battery with weapon	11	9	1	1	---	---	---	3	---	6	---	---
Assault, intent to murder	6	1	---	4	1	---	1	---	---	---	---	---
Burglary	10	7	1	2	---	---	1	6	---	---	---	---
Concealed weapons	19	14	1	4	---	---	---	10	---	9	---	---
Embezzlement	3	1	---	2	---	6	---	1	---	---	---	---
Enticing minor	1	---	---	1	---	---	---	---	---	---	---	---
Escape	2	2	---	---	---	---	---	2	---	---	---	---
Enticing labor	1	1	---	---	---	---	---	---	---	1	---	---
Failing to repair public road	5	2	---	3	---	---	---	---	---	2	---	---
False pretense	4	1	2	1	---	---	1	---	---	---	---	---
Forgery, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Gaming	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	19	11	2	5	1	---	5	6	---	---	---	---
Larceny, petit	7	7	---	---	---	---	---	5	---	2	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Murder, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Presenting gun	2	---	---	2	---	---	---	---	---	---	---	---
Rape	1	1	---	---	---	---	1	---	---	---	---	---
Resisting officer	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	2	---	---	2	---	---	---	---	---	---	---	---
Shooting across public road	3	---	---	3	---	---	---	---	---	---	---	---
Tampering with railroad												
Trespass after warning	1	---	1	---	---	---	---	---	---	---	---	---
Vagrancy	2	---	---	1	1	---	---	---	---	---	---	---
Violating court contract	1	---	---	1	---	---	---	---	---	---	---	---
Violating prohibition law	94	32	2	11	49	---	---	30	---	2	---	---
Violating quarantine law	3	---	---	3	---	---	---	---	---	---	---	---
Total	208	93	11	52	52	---	10	65	---	23	---	---

Percentage of convictions in cases disposed of, 45.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF DE KALB COUNTY.

C. C. Appleton, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	44	14	6	23	1	---	---	1	---	13	---	---
Adultery and fornication	2	---	2	---	---	---	---	---	---	---	---	---
Assault	19	7	3	9	---	---	---	---	---	7	---	---
Assault and battery	14	3	7	4	---	---	---	---	---	3	---	---
Assault and battery with weapon	6	5	---	1	---	---	---	---	---	5	---	---
Assault, intent to murder	3	1	1	1	---	---	1	---	---	---	---	---
Bastardy	2	1	1	---	---	---	---	---	---	1	---	---
Bigamy	1	---	---	1	---	---	---	---	---	---	---	---
Burglary	4	2	---	1	1	---	2	---	---	---	---	---
Concealed weapons	23	8	3	10	2	---	---	---	---	8	---	---
Changing hog mark	1	---	---	1	---	---	---	---	---	---	---	---
Defamation	1	1	---	---	---	---	---	---	---	1	---	---
Disturbing religious worship	18	9	---	9	---	---	---	---	---	9	---	---
Disturbing females	5	2	---	3	---	---	---	---	---	2	---	---
Disturbing school	1	1	---	---	---	---	---	---	---	1	---	---
Failing to repair public road	7	1	6	---	---	---	---	---	---	1	---	---
False pretense	1	---	---	1	---	---	---	---	---	---	---	---
Forgery, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Gaming on Sunday	1	1	---	---	---	---	---	---	---	1	---	---
Giving liquor to minor	4	2	---	2	---	---	---	---	---	2	---	---
Incest	4	1	1	2	---	---	1	---	---	---	---	---
Larceny, grand	2	1	---	1	---	---	1	---	---	---	---	---
Larceny, petit	8	1	2	5	---	---	---	---	---	1	---	---
Malicious mischief	9	1	5	3	---	---	---	---	---	1	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	1	---	---	---	1	---	---	---	---	---	---	---
Obstructing public road	5	2	2	1	---	---	---	---	---	2	---	---

CIRCUIT COURT OF DE KALB COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Overseer, neglect of duty	1	---	---	1	---	---	---	---	---	---	---	---
Practicing dentistry without a license	1	---	---	1	---	---	---	---	---	---	---	---
Practicing medicine without a license	2	1	---	1	---	---	---	---	---	1	---	---
Presenting gun	2	1	---	1	---	---	---	---	---	1	---	---
Public drunkenness	51	22	6	23	---	---	---	---	---	22	---	---
Removing property under lien	1	---	---	1	---	---	---	---	---	---	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	2	---	2	---	---	---	---	---	---	---	---	---
Severing and taking property	4	3	---	1	---	---	---	---	---	3	---	---
Shooting across public road	2	1	1	---	---	---	---	---	---	1	---	---
Throwing missile at dwelling	1	---	1	---	---	---	---	---	---	---	---	---
Trespass after warning	5	---	2	2	1	---	---	---	---	---	---	---
Vagrancy	1	---	---	1	---	---	---	---	---	---	---	---
Violating prohibition law	96	24	8	61	3	---	---	13	---	11	---	---
Total	358	117	59	173	9	---	6	14	---	97	---	---

Percentage of convictions in cases disposed of, 33.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF ELMORE COUNTY.
Fifteenth Judicial Circuit.

Hon. F. Loyd Tate, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	4	4	---	---	---	---	---	---	---	4	---	---
Assault and battery	10	3	3	4	---	---	---	---	---	3	---	---
Assault and battery with weapon	15	11	3	1	---	---	---	3	---	8	---	---
Assault, intent to murder	7	5	---	2	---	---	---	5	---	---	---	---
Burglary	2	1	---	1	---	---	1	---	---	---	---	---
Burglary and grand larceny	3	3	---	---	---	---	2	1	---	---	---	---
Concealed weapons	11	8	2	1	---	---	---	1	---	7	---	---
Cruelty to animals	2	1	---	1	---	---	---	---	---	1	---	---
Defacing public buildings	1	1	---	---	---	---	---	---	---	1	---	---
Defaulting road hand	1	1	---	---	---	---	---	---	---	1	---	---
Disturbing religious worship	3	3	---	---	---	---	---	---	---	3	---	---
Disposing of mortgaged property	3	1	---	2	---	---	---	---	---	1	---	---
Disturbing school	1	---	1	---	---	---	---	---	---	---	---	---
Failing to drive to the right	1	1	---	---	---	---	---	---	---	1	---	---
False pretense	4	1	1	2	---	---	---	---	---	1	---	---
Forgery, second degree	2	2	---	---	---	---	---	2	---	---	---	---
Gaming on Sunday	17	13	---	2	2	---	---	---	---	13	---	---
Going back into possession real estate	1	---	1	---	---	---	---	---	---	---	---	---
Larceny, grand	7	5	2	---	---	---	5	---	---	---	---	---
Larceny, petit	9	8	---	1	---	---	---	3	---	5	---	---
Larceny, grand, and receiving stolen goods	4	1	1	2	---	---	1	---	---	---	---	---
Mayhem	1	---	1	---	---	---	---	---	---	---	---	---

CIRCUIT COURT OF ELMORE COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Manslaughter, first degree	2	2	---	---	---	---	1	1	---	---	---	---
Manslaughter, second degree	2	2	---	---	---	---	1	1	---	---	---	---
Moving personal property	1	1	---	---	---	---	---	---	---	1	---	---
Murder, first degree	2	---	1	---	1	---	---	---	---	---	---	---
Murder, second degree	11	8	1	1	1	---	8	---	---	---	---	---
Presenting gun	1	---	---	1	---	---	---	---	---	---	---	---
Public drunkenness	3	3	---	---	---	---	---	---	---	3	---	---
Rape	3	3	---	---	---	---	1	2	---	---	---	---
Shooting across public road	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	2	1	---	1	---	---	---	---	---	1	---	---
Violating court contract	3	2	---	1	---	---	---	1	---	1	---	---
Violating prohibition law	37	10	7	14	6	---	---	2	---	8	---	---
Violating Sunday law	1	1	---	---	---	---	---	---	---	1	---	---
Violating stock law	2	1	---	1	---	---	---	---	---	1	---	---
Total	180	108	24	38	10	---	20	22	---	66	---	---

Percentage of convictions in cases disposed of, 63.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF ESCAMBIA COUNTY.
Second Judicial Circuit.

Hon. C. R. Bricken, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	15	14	---	1	---	---	---	---	---	14	---	---
Adultery and fornication	1	1	---	---	---	---	---	1	---	---	---	---
Arson, second degree	1	---	1	---	---	---	---	---	---	---	---	---
Assault and battery	6	6	---	---	---	---	---	---	---	6	---	---
Assault and battery with weapon	20	19	---	1	---	---	---	2	---	17	---	---
Assault, intent to murder	6	6	---	---	---	---	2	4	---	---	---	---
Assault, intent to ravish	2	---	---	2	---	---	---	---	---	---	---	---
Concealed weapons	17	12	---	3	2	---	---	2	---	10	---	---
Cruelty to animals	2	2	---	---	---	---	---	---	---	2	---	---
Disturbing religious worship	1	1	---	---	---	---	---	---	---	1	---	---
Disturbing females	1	1	---	---	---	---	---	---	---	1	---	---
Escape	1	1	---	---	---	---	---	---	---	1	---	---
False pretense	2	1	---	1	---	---	---	---	---	1	---	---
Forgery, second degree	3	3	---	---	---	---	3	---	---	---	---	---
Larceny, grand	6	5	---	1	---	---	1	4	---	---	---	---
Larceny, petit	6	5	---	1	---	---	---	2	---	3	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, second degree	1	1	---	---	---	---	1	---	---	---	---	---
Playing cards, public place	3	3	---	---	---	---	---	---	---	3	---	---
Public drunkenness	7	7	---	---	---	---	---	---	---	7	---	---
Receiving stolen property	1	1	---	---	---	---	---	---	---	1	---	---
Selling mortgaged property	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	2	1	---	1	---	---	---	---	---	1	---	---
Violating prohibition law	8	7	---	1	---	---	---	---	---	7	---	---
Violating Sunday law	5	5	---	---	---	---	---	---	---	5	---	---
Violating pistol law	1	1	---	---	---	---	---	---	---	1	---	---
Total	120	105	1	12	2	---	8	15	---	82	---	---

Percentage of convictions in cases disposed of, 87.

Predominant crime, Assault and Battery.

CIRCUIT COURT OF ETOWAH COUNTY.
Sixteenth Judicial Circuit.

Hon. Jas. A. Embry, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Removing mortgaged property	1	---	1	---	---	---	---	---	---	---	---	---
Violating prohibition law	10	8	2	---	---	---	---	---	---	8	---	---
Total	11	8	3	---	---	---	---	---	---	8	---	---

Percentage of convictions in cases disposed of, 72.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF FAYETTE COUNTY.

M. T. Ormond, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	4	4	---	---	---	---	---	---	---	4	---	---
Adultery and fornication	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery	6	6	---	---	---	---	---	---	---	6	---	---
Assault and battery with weapon	2	2	---	---	---	---	---	---	---	2	---	---
Concealed weapons	2	1	---	1	---	---	---	---	---	1	---	---
Disturbing religious worship	2	2	---	---	---	---	---	---	---	2	---	---
Disposing of mortgaged property	1	---	---	1	---	---	---	---	---	---	---	---
Failing to repair public road	1	1	---	---	---	---	---	---	---	1	---	---
Larceny, grand	1	---	1	---	---	---	---	---	---	---	---	---
Larceny, petit	9	8	---	1	---	---	---	---	---	8	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, second degree	3	3	---	---	---	---	3	---	---	---	---	---
Public drunkenness	15	14	---	---	1	---	---	---	---	14	---	---
Trespass after warning	1	1	---	---	---	---	---	---	---	1	---	---
Unlawful injury to animal	1	1	---	---	---	---	---	---	---	1	---	---
Violating prohibition law	12	6	2	4	---	---	---	---	---	6	---	---
Violating Sunday law	4	4	---	---	---	---	---	---	---	4	---	---
Total	66	55	3	7	1	---	4	---	---	51	---	---

Percentage of convictions in cases disposed of, 83 1-3.

Predominant crime, Public Drunkenness.

CIRCUIT COURT OF FRANKLIN COUNTY.

Eleventh Judicial Circuit.

Hon. R. T. Simpson, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	17	11	1	5	---	---	---	---	---	11	---	---
Arson, first degree	1	---	1	---	---	---	---	---	---	---	---	---
Assault and battery	3	1	---	2	---	---	---	---	---	1	---	---
Assault and battery with weapon	5	3	---	2	---	---	---	---	---	3	---	---
Assault, intent to murder	3	1	---	---	2	---	1	---	---	---	---	---
Burglary	6	3	2	1	---	---	3	---	---	---	---	---
Concealed weapons	7	4	2	1	---	---	---	1	---	3	---	---
Defaulting road hand	4	---	---	4	---	---	---	---	---	---	---	---
Disturbing religious worship	5	2	---	3	---	---	---	---	---	2	---	---
Disturbing females	2	2	---	---	---	---	---	---	---	2	---	---
Embezzlement	7	---	---	---	7	---	---	---	---	---	---	---
False pretense	7	---	---	7	---	---	---	---	---	---	---	---
Forgery, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Gaming	4	3	---	1	---	---	---	---	---	3	---	---
Killing hogs unlawfully	4	---	---	4	---	---	---	---	---	---	---	---
Larceny, grand	6	6	---	---	---	---	6	---	---	---	---	---
Larceny, petit	3	2	---	1	---	---	---	---	1	2	---	---
Manslaughter, first degree	3	3	---	---	---	---	3	---	---	---	---	---
Murder, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Playing cards on Sunday	3	2	---	1	---	---	---	---	---	2	---	---
Presenting gun	2	2	---	---	---	---	---	---	---	2	---	---
Public drunkenness	28	17	---	11	---	---	---	---	---	17	---	---
Resisting officer	7	4	2	1	---	---	---	---	---	4	---	---
Shooting into dwelling	1	1	---	---	---	---	---	---	---	1	---	---
Selling on Sunday	2	1	1	---	---	---	---	---	---	1	---	---

CIRCUIT COURT OF FRANKLIN COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Selling mortgaged property	4	1	---	3	---	---	---	---	---	1	---	---
Shooting across public road	2	1	---	1	---	---	---	---	---	1	---	---
Trespass after warning	2	---	---	2	---	---	---	---	---	---	---	---
Unlawfully killing dog	1	1	---	---	---	---	---	---	---	1	---	---
Violating prohibition law	45	26	2	17	---	---	---	4	---	22	---	---
Violating Sunday law	1	1	---	---	---	---	---	---	---	1	---	---
Violating stock law	1	1	---	---	---	---	---	---	---	1	---	---
Total	189	101	11	68	9	---	15	5	1	81	---	---

Percentage of convictions in cases disposed of, 52.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF GREENE COUNTY.

M. T. Ormond, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	9	9	---	---	---	---	---	1	---	8	---	---
Assault and battery	11	11	---	---	---	---	---	---	1	11	---	---
Assault and battery with weapon	24	21	---	3	---	---	---	1	---	21	---	---
Assault, intent to murder	4	---	1	---	3	---	---	---	---	---	---	---
Attempt to commit a felony	3	3	---	---	---	---	---	---	---	3	---	---
Burglary	6	3	---	3	---	---	1	2	---	---	---	---
Burglary and grand larceny	3	2	1	---	---	---	---	2	---	2	---	---
Concealed weapons	13	10	---	1	2	---	---	1	---	9	---	---
Enticing labor	1	1	---	---	---	---	---	---	---	1	---	---
False pretense	6	3	1	2	---	---	---	---	---	3	---	---
Gaming	2	1	---	---	1	---	---	---	---	1	---	---
Keeping sheep-killing dog	2	---	2	---	---	---	---	---	---	---	---	---
Larceny, grand	8	5	---	2	1	---	3	2	---	---	---	---
Larceny, petit	8	3	---	4	1	---	---	---	---	3	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, second degree	3	2	---	---	1	---	2	---	---	---	---	---
Obstructing public road	1	---	---	1	---	---	---	---	---	---	---	---
Obstructing railroad	1	1	---	---	---	---	1	---	---	---	---	---
Public drunkenness	7	6	---	1	---	---	---	---	---	6	---	---
Receiving stolen property	1	1	---	---	---	---	---	---	---	1	---	---
Removing mortgaged property	5	5	---	---	---	---	---	1	---	4	---	---
Sending abusive letter	1	1	---	---	---	---	---	---	---	1	---	---
Shooting across public road	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	1	1	---	---	---	---	---	---	---	1	---	---
Violating game and fish law	1	---	---	1	---	---	---	---	---	---	---	---
Violating prohibition law	37	29	1	6	1	---	---	5	5	24	---	---
Violating Sunday law	9	8	---	1	---	---	---	---	---	8	---	---
Violating stock law	1	---	---	1	---	---	---	---	---	---	---	---
Total	170	128	6	26	10	---	8	15	6	108	---	---

Percentage of convictions in cases disposed of, 75 1-3.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF HALE COUNTY.

J. F. Thompson, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Assault and battery	2	2	---	---	---	---	---	---	---	2	---	---
Assault and battery with weapon	3	3	---	---	---	---	---	---	---	3	---	---
Burglary	3	3	---	---	---	---	---	3	---	---	---	---
Larceny, grand	5	2	1	2	---	---	---	2	---	---	---	---
Manslaughter, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Murder, first degree	2	1	1	---	---	---	1	---	---	---	---	---
Obstructing railroad	1	1	---	---	---	---	1	---	---	---	---	---
Total	18	14	2	2	---	---	4	5	---	5	---	---

Percentage of convictions in cases disposed of, 77 per cent.
Predominant crime, Grand Larceny.

CIRCUIT COURT OF HENRY COUNTY.
Third Judicial Circuit.

H. B. Steagall, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	10	5	3	2						5		
Arson, first degree	1		1									
Arson, second degree	3	1		1	1		1					
Assault and battery	22	18	2	1	1			1		18		
Assault and battery with weapon	1	1						1				
Assault, intent to murder	2	1	1				1					
Attempt to commit a felony	1	1								1		
Bastardy	1	1								1		
Bestiality	1	1					1					
Burglary	4	1	1	2			1					
Concealed weapons	15	10	1	2	2			1		9		
Cock fighting	3		1	2								
Disposing of property under lien	2	2								2		
Failing to repair public road	1	1								1		
Gaming on Sunday	1	1								1		
Incest	1			1								
Larceny, petit	12	5	2	5				2	3	5		
Manslaughter, second degree	1	1						1				
Murder, first degree	5	1	4			1						
Murder, second degree	7	6	1				6					
Presenting gun	2	2								2		
Public drunkenness	6	6								6		
Removing property under lien	1			1								
Removing landmark	1		1									

CIRCUIT COURT OF HENRY COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Selling mortgaged property	2	---	---	2	---	---	---	---	---	---	---	---
Shooting across public road	1	---	---	1	---	---	---	---	---	---	---	---
Unlawful injury to animal	1	---	---	1	---	---	---	---	---	---	---	---
Violating game and fish law	7	7	---	---	---	---	---	---	---	7	---	---
Violating prohibition law	29	11	2	9	7	---	---	11	---	11	---	---
Violating Sunday law	7	4	---	3	---	---	---	---	---	4	---	---
Violating written contract	2	1	---	1	---	---	---	---	---	1	---	---
Total	153	88	20	34	11	1	10	17	3	74	---	---

Percentage of convictions in cases disposed of, 57.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF JEFFERSON COUNTY.

Joseph R. Tate, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Assault and battery	1	---	---	1	---	---	---	---	---	---	---	---
Bastardy	3	2	---	1	---	---	---	---	---	---	---	---
Embezzlement	1	---	---	1	---	---	---	---	---	---	---	---
Vagrancy	1	---	---	1	---	---	---	---	---	---	---	---
Total	6	---	2	2	2	---	---	---	---	---	---	---

Percentage of convictions in cases disposed of, 33 1-3.
Predominant crime, Bastardy.

CIRCUIT COURT OF LAMAR COUNTY.

M. T. Ormond, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abandonment	1	---	---	1	---	---	---	---	---	---	---	---
Abusive language	1	---	1	---	---	---	---	---	---	---	---	---
Assault and battery	21	16	---	5	---	---	---	---	---	16	---	---
Assault and battery with weapon	10	6	---	4	---	---	---	---	---	6	---	---
Assault, intent to murder	1	1	---	---	---	---	1	---	---	---	---	---
Assault, intent to ravish	2	2	---	---	---	---	2	---	---	---	---	---
Attempt to commit a felony	1	1	---	---	---	---	---	---	---	1	---	---
Burglary	2	1	1	---	---	---	---	1	---	---	---	---
Concealed weapons	10	8	1	1	---	---	---	---	---	8	---	---
Defacing public buildings	1	1	---	---	---	---	---	---	---	1	---	---
Embezzlement	2	---	---	2	---	---	---	---	---	---	---	---
Forgery, second degree	2	---	---	2	---	---	---	---	---	---	---	---
Gaming	3	5	---	---	---	---	---	---	---	3	---	---
Larceny, petit	4	4	---	---	---	---	---	---	---	4	---	---
Murder, second degree	3	2	1	---	---	---	2	---	---	---	---	---
Practicing medicine without a license	1	1	---	---	---	---	---	---	---	1	---	---
Presenting gun	3	2	1	---	---	---	---	---	---	2	---	---
Public drunkenness	57	49	1	7	---	---	---	---	---	49	---	---
Removing mortgaged property	2	1	---	1	---	---	---	---	---	1	---	---
Seduction	1	---	1	---	---	---	---	---	---	---	---	---
Selling liquor to minor	1	---	1	---	---	---	---	---	---	---	---	---
Swapping horses without license	1	1	---	---	---	---	---	---	---	1	---	---
Temporary use of animal	1	---	---	1	---	---	---	---	---	---	---	---
Trespass after warning	3	---	---	3	---	---	---	---	---	---	---	---

CIRCUIT COURT OF LAMAR COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Unlawful injury to animal	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	1	1	---	---	---	---	---	---	---	1	---	---
Violating prohibition law	37	20	7	6	4	---	---	2	---	20	---	---
Violating Sunday law	10	10	---	---	---	---	---	---	---	10	---	---
Violating stock law	3	3	---	---	---	---	---	---	---	3	---	---
Violation Sec. 7074 Code	1	---	1	---	---	---	---	---	---	---	---	---
Total	187	134	16	33	4	---	5	3	---	128	---	---

Percentage of convictions in cases disposed of, 70.

Predominant crime, Public Drunkenness.

CIRCUIT COURT OF LAUDERDALE COUNTY.

Eleventh Judicial Circuit.

Hon. R. T. Simpson, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	21	13	1	7	---	---	---	2	---	11	---	---
Adultery and fornication	1	---	---	1	---	---	---	---	---	---	---	---
Assault and battery	10	8	2	---	---	---	---	---	---	8	---	---
Assault and battery with weapon	27	23	1	3	---	---	---	2	---	21	---	---
Assault, intent to murder	10	7	---	3	---	---	4	3	---	---	---	---
Betting at cards	1	1	---	---	---	---	---	---	---	1	---	---
Bigamy	1	---	---	1	---	---	---	---	---	---	---	---
Burglary	16	15	---	1	---	---	11	4	---	---	---	---
Concealed weapons	18	13	---	5	---	---	---	4	---	10	---	---
Disturbing religious worship	25	16	2	5	2	---	---	---	---	16	---	---
Disposing of mortgaged property	4	2	---	2	---	---	---	---	---	2	---	---
Disturbing public assembly	2	2	---	---	---	---	---	---	---	2	---	---
Embezzlement	1	---	---	1	---	---	---	---	---	---	---	---
Escape	1	1	---	---	---	---	---	1	---	---	---	---
False pretense	4	2	---	2	---	---	---	2	---	---	---	---
Forgery, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Gaming in public place	1	1	---	---	---	---	---	---	---	1	---	---
Keeping gaming table	1	---	1	---	---	---	---	---	---	---	---	---
Larceny, grand	17	10	1	4	2	---	8	2	---	---	---	---
Larceny, petit	14	7	---	7	---	---	---	3	1	3	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Murder, first degree	4	2	1	1	---	---	2	---	---	---	---	---
Public drunkenness	52	42	1	8	1	---	---	---	---	42	---	---
Reckless driving	2	2	---	---	---	---	---	---	---	2	---	---

CIRCUIT COURT OF LAUDERDALE COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Resisting officer	1	1	---	---	---	---	---	---	---	1	---	---
Seduction	2	---	---	2	---	---	---	---	---	---	---	---
Selling mortgaged property	2	2	---	---	---	---	---	---	---	2	---	---
Trespass after warning	1	1	---	---	---	---	---	---	---	1	---	---
Unlawful injury to animal	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	5	1	2	2	---	---	---	---	---	1	---	---
Violating prohibition law	82	46	2	34	---	---	---	7	---	39	---	---
Violating revenue law	1	1	---	---	---	---	---	---	---	1	---	---
Total	330	221	14	90	5	---	25	31	1	165	---	---

Percentage of convictions in cases disposed of, 70.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF LAWRENCE COUNTY.
Eighth Judicial Circuit.

Hon. D. C. Almon, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Adultery and fornication	1	---	---	1	---	---	---	---	---	---	---	---
Arson, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Assault and battery with weapon	4	4	---	---	---	---	---	---	---	4	---	---
Bastardy	1	1	---	---	---	---	---	---	---	1	---	---
Bigamy	1	---	---	1	---	---	---	---	---	---	---	---
Burglary	4	4	---	---	---	---	4	---	---	---	---	---
Concealed weapons	9	5	2	2	---	---	---	---	---	5	---	---
Disturbing religious worship	2	1	---	1	---	---	---	---	---	1	---	---
Forgery, first degree	1	---	---	---	1	---	---	---	---	---	---	---
Gaming	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	4	3	---	1	---	---	3	---	---	---	---	---
Malicious mischief	1	1	---	---	---	---	---	---	---	1	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Manslaughter, second degree	3	3	---	---	---	---	---	*2	---	---	---	---
Murder, first degree	4	2	2	---	---	---	2	---	---	---	---	---
Perjury	1	---	1	---	---	---	---	---	---	---	---	---
Public drunkenness	1	1	---	---	---	---	---	---	---	1	---	---
Removing mortgaged property	1	---	---	1	---	---	---	---	---	---	---	---
Violating prohibition law	26	3	---	23	---	---	---	---	---	3	---	---
Total	67	30	5	31	1	---	11	2	---	16	---	---

Percentage of convictions in cases disposed of, 44.

Predominant crime, Violating Prohibition Law.

* One sentenced to Reform School.

CIRCUIT COURT OF LIMESTONE COUNTY.
Eighth Judicial Circuit.

Hon. D. C. Almon, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to: Death	Penitentiary	Hard Labor	Jail	Fines paid or secured	Insane Asylum	Pardoned
Abusive language	2	1	---	1	---	---	---	---	---	1	---	---
Adultery and fornication	1	1	---	---	---	---	---	1	---	---	---	---
Assault and battery	4	4	---	---	---	---	---	---	---	4	---	---
Assault and battery with weapon	6	5	---	1	---	---	---	---	---	5	---	---
Attempt at larceny	2	1	---	1	---	---	---	---	---	1	---	---
Burglary	5	5	---	---	---	---	5	---	---	---	---	---
Concealed weapons	10	7	1	2	---	---	---	1	---	6	---	---
Disturbing religious worship	5	5	---	---	---	---	---	---	---	5	---	---
False pretense	2	2	---	---	---	---	1	1	---	---	---	---
Forgery, first degree	7	7	---	---	---	---	7	---	---	---	---	---
Larceny, grand	13	12	1	---	---	---	12	---	---	---	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Murder, second degree	2	2	---	---	---	---	2	---	---	---	---	---
Obstructing public road	1	---	1	---	---	---	---	---	---	---	---	---
Public drunkenness	2	2	---	---	---	---	---	---	---	2	---	---
Rape	1	1	---	---	---	---	1	---	---	---	---	---
Robbery	2	2	---	---	---	---	2	---	---	---	---	---
Shooting across public road	2	2	---	---	---	---	---	---	---	2	---	---
Shooting on Sunday	2	1	---	1	---	---	---	---	---	1	---	---
Violating prohibition law	36	28	---	8	---	---	---	3	---	25	---	---
Violating stock law	1	---	---	1	---	---	---	---	---	---	---	---
Total	109	91	3	15	---	---	33	6	---	52	---	---

Percentage of convictions in cases disposed of, 83.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF LOWNDES COUNTY.
Second Judicial Circuit.

Hon. C. R. Bricken, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Arson, second degree	1	1	---	---	---	---	1	---	---	---	---	---
Assault and battery	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery with weapon	11	11	---	---	---	---	---	2	---	9	---	---
Assault, intent to murder	7	6	1	---	---	---	2	4	---	---	---	---
Bigamy	1	1	---	---	---	---	1	---	---	---	---	---
Burglary and grand larceny	5	4	1	---	---	---	2	2	---	---	---	---
Concealed weapons	7	6	---	1	---	---	---	3	---	3	---	---
False pretense	1	1	---	---	---	---	---	---	---	1	---	---
Gaming	7	7	---	---	---	---	---	---	---	7	---	---
Larceny, grand	11	9	---	2	---	---	6	3	---	---	---	---
Larceny, petit	3	3	---	---	---	---	---	---	---	3	---	---
Manslaughter, first degree	2	2	---	---	---	---	1	1	---	---	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Murder, first degree	3	1	---	---	2	---	1	---	---	---	---	---
Murder, second degree	10	9	1	---	---	---	9	---	---	---	---	---
Violating prohibition law	6	6	---	---	---	---	---	5	---	1	---	---
Violating Sunday law	1	1	---	---	---	---	---	---	---	1	---	---
Total	78	70	3	3	2	---	23	21	---	26	---	---

Percentage of convictions in cases disposed of, 88.

Predominant crimes, Assault and Battery with Weapon and Grand Larceny.

CIRCUIT COURT OF MACON COUNTY.
Fifth Judicial Circuit.

Hon. W. B. Bowling, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Arson, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Arson, second degree	1	---	1	---	---	---	---	---	---	---	---	---
Assault, intent to murder	11	8	2	1	---	---	8	---	---	---	---	---
Assault, intent to ravish	3	2	1	---	---	---	2	---	---	---	---	---
Burglary	13	13	---	---	---	---	13	---	---	---	---	---
Forgery, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Larceny, grand	13	6	1	6	---	---	6	---	---	---	---	---
Manslaughter, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Miscegenation	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Murder, second degree	4	3	1	---	---	---	3	---	---	---	---	---
Obstructing railroad	1	1	---	---	---	---	1	---	---	---	---	---
Seduction	1	1	---	---	---	---	1	---	---	---	---	---
Violating prohibition law	16	9	3	4	---	---	---	7	---	8	---	---
Total	70	50	9	11	---	---	41	7	---	8	---	---

Percentage of convictions in cases disposed of, 70.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF MARENGO COUNTY.

John McDuffee, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Assault and battery	4	3	---	---	1	---	---	---	---	3	---	---
Assault and battery with weapon	5	3	---	2	---	---	---	2	---	1	---	---
Assault, intent to murder	3	3	---	---	---	---	3	---	---	---	---	---
Burglary	7	3	---	2	2	---	2	1	---	---	---	---
Carnal knowledge, girl under 12	5	4	---	1	---	---	---	2	---	2	---	---
Concealed weapons	11	8	1	2	---	---	---	2	---	6	---	---
False pretense	1	1	---	---	---	---	---	1	---	---	---	---
Gaming	5	3	1	---	1	---	---	---	---	3	---	---
Larceny, grand	9	8	---	---	1	---	4	4	---	---	---	---
Larceny, petit	15	14	1	---	---	---	---	2	3	13	---	---
Murder, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Receiving stolen property	1	---	---	---	1	---	---	---	---	---	---	---
Selling mortgaged property	1	1	---	---	---	---	1	---	---	---	---	---
Temporary use of animal	2	2	---	---	---	---	---	---	---	2	---	---
Unlawful injury to animal	3	---	3	---	---	---	---	---	---	---	---	---
Violating game and fish law	7	2	2	2	1	---	---	---	---	2	---	---
Violating prohibition law	18	2	2	7	7	---	---	1	---	1	---	---
Violating Sunday law	1	---	1	---	---	---	---	---	---	---	---	---
Violating written contract	2	---	---	1	1	---	---	---	---	---	---	---
Total	101	58	11	17	15	---	11	15	3	33	---	---

Percentage of convictions in cases disposed of, 57.

Predominant crimes, Violating Prohibition Law and Petit Larceny.

CIRCUIT COURT OF MARION COUNTY.
Eleventh Judicial Circuit.

Hon. R. T. Simpson, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	5	2	---	3	---	---	---	---	---	2	---	---
Adultery and fornication	3	2	---	---	1	---	---	---	---	2	---	---
Arson, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Assault	5	4	1	---	---	---	---	---	---	4	---	---
Assault and battery with weapon	8	5	---	3	---	---	---	---	---	5	---	---
Assault, intent to ravish	1	1	---	---	---	---	1	---	---	---	---	---
Bastardy	1	---	---	1	---	---	---	---	---	---	---	---
Bigamy	1	1	---	---	---	---	1	---	---	---	---	---
Burglary	1	1	---	---	---	---	1	---	---	---	---	---
Concealed weapons	24	16	---	8	---	---	---	---	---	16	---	---
Cruelty to animals	1	---	---	1	---	---	---	---	---	---	---	---
Defacing public buildings	3	3	---	---	---	---	---	---	---	3	---	---
Defaulting road hand	1	---	---	1	---	---	---	---	---	---	---	---
Disturbing religious worship	11	4	2	5	---	---	---	---	---	4	---	---
Forgery, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, petit	2	---	---	2	---	---	---	---	---	---	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, second degree	1	1	---	---	---	---	1	---	---	---	---	---
Presenting gun	1	1	---	---	---	---	---	---	---	1	---	---
Public drunkenness	70	60	---	10	---	---	---	---	---	60	---	---
Resisting officer	1	---	---	1	---	---	---	---	---	---	---	---
Robbery	2	---	---	2	---	---	---	---	---	---	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	2	---	---	2	---	---	---	---	---	---	---	---
Shooting across public road	1	1	---	---	---	---	---	---	---	1	---	---

CIRCUIT COURT OF MARION COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Trespass after warning	4	---	---	4	---	---	---	---	---	---	---	---
Vagrancy	1	---	---	1	---	---	---	---	---	---	---	---
Violating prohibition law	57	35	1	13	8	---	---	8	---	27	---	---
Violating Sunday law	10	---	---	10	---	---	---	---	---	---	---	---
Violating stock law	1	1	---	---	---	---	---	---	---	1	---	---
Total	223	140	4	70	9	---	6	8	---	126	---	---

Percentage of convictions in cases disposed of, 63.

Predominant crime, Violating Prohibition Law and Public Drunkenness.

CIRCUIT COURT OF MARSHALL COUNTY.

C. C. Appleton, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	24	12	5	7	---	---	---	---	---	12	---	---
Adultery and fornication	4	1	2	1	---	---	---	---	---	1	---	---
Arson, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Assault	10	7	3	---	---	---	---	---	---	7	---	---
Assault and battery	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery with weapon	7	6	1	---	---	---	---	---	---	6	---	---
Assault, intent to murder	4	1	---	2	1	---	1	---	---	---	---	---
Assault, intent to ravish	2	---	2	---	---	---	---	---	---	---	---	---
Attempt at bribery	1	1	---	---	---	---	1	---	---	---	---	---
Betting at cards	1	1	---	---	---	---	---	---	---	1	---	---
Concealed weapons	38	10	13	15	---	---	---	---	---	10	---	---
Defamation	3	---	1	2	---	---	---	---	---	---	---	---
Disturbing religious worship	4	1	1	2	---	---	---	---	---	1	---	---
Disturbing females	5	3	1	1	---	---	---	---	---	3	---	---
Failing to repair public road	4	1	3	---	---	---	---	---	---	1	---	---
False pretense	3	---	---	3	---	---	---	---	---	---	---	---
Forgery, first degree	1	---	1	---	---	---	---	---	---	---	---	---
Gaming	2	2	---	---	---	---	---	---	---	2	---	---
Gaming on Sunday	12	8	---	4	---	---	---	---	---	8	---	---
Giving liquor to minor	1	---	---	1	---	---	---	---	---	---	---	---
Horse racing	1	---	---	1	---	---	---	---	---	---	---	---
Justice of peace, neglect of duty	2	1	---	1	---	---	---	---	---	1	---	---
Keeping house of prostitution	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	4	2	1	1	---	---	2	---	---	---	---	---
Larceny, petit	4	1	---	3	---	---	---	---	1	1	---	---

CIRCUIT COURT OF MARSHALL COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Malicious mischief	2	2								2		
Manslaughter, first degree	3	1	2				1					
Manslaughter, second degree	1			1								
Murder, first degree	1				1							
Obstructing public road	1		1									
Practicing medicine without a license	1			1								
Presenting gun	3		1	2								
Public drunkenness	35	19	4	12						19		
Removing property under lien	1			1								
Seduction	1		1									
Selling diseased meat	6	2		4						2		
Selling mortgaged property	4		1	3								
Shooting across public road	1			1								
Temporary use of property	1			1								
Vagrancy	2			2								
Violating game and fish law	1	1								1		
Violating prohibition law	60	17	15	28				6		14		
Violating revenue law	1			1								
Violating Sunday law	10	8		2						8		
Total	276	110	58	106	2		5	6	1	101		

Percentage of convictions in cases disposed of, 35.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF MONROE COUNTY.

John McDuffee, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Assault and battery	1	1	---	---	---	---	---	1	---	---	---	---
Assault and battery with weapon	5	5	---	---	---	---	---	2	---	3	---	---
Assault, intent to murder	10	6	1	3	---	---	4	2	---	---	---	---
Burglary	3	3	---	---	---	---	---	3	---	---	---	---
Burglary and grand larceny	1	---	1	---	---	---	---	---	---	---	---	---
Embezzlement	7	1	---	6	---	---	1	---	---	---	---	---
Forgery, second degree	3	1	1	1	---	---	1	---	---	---	---	---
Larceny, grand	5	---	3	---	2	---	---	---	---	---	---	---
Larceny, petit	3	3	---	---	---	---	---	2	---	1	---	---
Manslaughter, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Murder, first degree	4	2	1	---	1	1	1	---	---	---	---	---
Murder, second degree	5	2	1	2	---	---	2	---	---	---	---	---
Violating prohibition law	25	15	1	3	6	---	---	---	---	15	---	---
Total	74	41	9	15	9	1	11	10	---	19	---	---

Percentage of convictions in cases disposed of, 55.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF MORGAN COUNTY.
Eighth Judicial Circuit.

Hon. D. C. Almon, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Assault and battery with weapon	1	1	---	---	---	---	---	1	---	---	---	---
Assault, intent to murder	3	---	1	2	---	---	---	---	---	---	---	---
Burglary	9	8	1	---	---	---	8	---	---	---	---	---
Embezzlement	1	---	---	1	---	---	---	---	---	---	---	---
False pretense	1	---	---	1	---	---	---	---	---	---	---	---
Incest	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	9	9	---	---	---	---	9	---	---	---	---	---
Larceny, petit	2	2	---	---	---	---	---	2	---	---	---	---
Manslaughter, first degree	2	1	1	---	---	---	1	---	---	---	---	---
Murder, first degree	4	1	3	---	---	---	1	---	---	---	---	---
Robbery	3	3	---	---	---	---	3	---	---	---	---	---
Total	36	25	6	5	---	---	22	3	---	---	---	---

Percentage of convictions in cases disposed of, 68.

Predominant crimes, Burglary, and Burglary and Grand Larceny.

CIRCUIT COURT OF PERRY COUNTY.

J. F. Thompson, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	3	3	---	---	---	---	---	---	---	3	---	---
Adultery and fornication	1	1	---	---	---	---	---	---	---	1	---	---
Allowing minor to play pool	1	1	---	---	---	---	---	---	---	1	---	---
Arson, second degree	2	2	---	---	---	---	1	1	---	---	---	---
Assault and battery	15	15	---	---	---	---	---	1	---	14	---	---
Assault and battery with weapon	17	14	---	3	---	---	---	1	---	13	---	---
Assault, intent to murder	4	1	---	3	---	---	1	---	---	---	---	---
Burglary	8	7	---	1	---	---	4	3	---	---	---	---
Concealed weapons	35	27	2	6	---	---	---	2	---	25	---	---
Escape	3	3	---	---	---	---	---	3	---	---	---	---
Gaming	8	5	---	3	---	---	---	---	---	5	---	---
Larceny, grand	6	5	1	---	---	---	---	5	---	---	---	---
Larceny, petit	20	18	1	1	---	---	---	8	---	10	---	---
Manslaughter, first degree	5	5	---	---	---	---	5	---	---	---	---	---
Manslaughter, second degree	2	2	---	---	---	---	---	1	---	1	---	---
Murder, first degree	4	3	1	---	---	3	---	---	---	---	---	---
Presenting gun	4	3	---	1	---	---	---	2	---	1	---	---
Resisting officer	2	2	---	---	---	---	---	1	---	1	---	---
Selling mortgaged property	2	1	---	1	---	---	---	---	---	1	---	---
Temporary use of animal	3	2	---	1	---	---	---	---	---	2	---	---
Trespass after warning	3	2	---	1	---	---	---	---	---	2	---	---
Unlawful injury to animal	4	1	---	3	---	---	---	---	---	1	---	---
Violating prohibition law	32	28	---	4	---	---	---	11	---	17	---	---
Total	184	151	5	28	---	3	11	39	---	98	---	---

Percentage of convictions in cases disposed of, 82.

Predominant crime, Carrying Concealed Weapons.

CIRCUIT COURT OF PICKENS COUNTY.

M. T. Ormond, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abandonment	1	1	---	---	---	---	---	---	---	1	---	---
Adultery and fornication	1	---	---	1	---	---	---	---	---	---	---	---
Arson, first degree	1	---	1	---	---	---	---	---	---	---	---	---
Arson, third degree	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery	11	9	---	2	---	---	---	---	---	9	---	---
Assault and battery with weapon	5	5	---	---	---	---	---	---	---	5	---	---
Assault, intent to murder	3	---	---	2	1	---	---	---	---	---	---	---
Burglary	1	1	---	---	---	---	---	1	---	---	---	---
Burglary and grand larceny	2	2	---	---	---	---	---	2	---	---	---	---
Concealed weapons	16	11	2	3	---	---	---	---	---	11	---	---
Disturbing religious worship	2	1	1	---	---	---	---	---	---	1	---	---
Disturbing females	2	2	---	---	---	---	---	---	---	2	---	---
Failing to repair public road	2	2	---	---	---	---	---	---	---	2	---	---
False pretense	3	2	---	1	---	---	---	---	---	2	---	---
Forgery, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Gaming	9	7	1	1	---	---	---	---	---	7	---	---
Larceny, grand	6	4	---	2	---	---	4	---	---	---	---	---
Larceny, petit	4	2	---	2	---	---	---	1	---	1	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	3	---	1	2	---	---	---	---	---	---	---	---
Overseer, neglect of duty	2	---	1	1	---	---	---	---	---	---	---	---
Presenting gun	1	1	---	---	---	---	---	---	---	1	---	---
Public drunkenness	22	21	---	1	---	---	---	---	---	21	---	---
Removing mortgaged property	5	4	1	---	---	---	---	---	---	4	---	---

CIRCUIT COURT OF PICKENS COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Unlawful injury to animal	1	---	---	1	---	---	---	---	---	---	---	---
Unlawfully killing dog	1	---	---	1	---	---	---	---	---	---	---	---
Vagrancy	3	---	1	2	---	---	---	---	---	---	---	---
Violating game and fish law	1	1	---	---	---	---	---	---	---	1	---	---
Violating prohibition law	26	19	---	7	---	---	---	9	---	16	---	---
Violating Sunday law	13	13	---	---	---	---	---	---	---	13	---	---
Total	150	110	9	30	1	---	5	13	---	98	---	---

Percentage of convictions in cases disposed of, 73 1-3.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF RANDOLPH COUNTY,
Fifth Judicial Circuit.

Hon. W. B. Bowling, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	11	7	2	2	---	---	---	---	---	7	---	---
Adultery and fornication	3	---	1	2	---	---	---	---	---	---	---	---
Affray	2	2	---	---	---	---	---	---	---	2	---	---
Arson, second degree	1	---	1	---	---	---	---	---	---	---	---	---
Assault	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery	7	6	---	1	---	---	---	---	---	6	---	---
Assault and battery with weapon	8	8	---	---	---	---	---	---	---	8	---	---
Assault, intent to murder	4	3	---	1	---	---	3	---	---	---	---	---
Bigamy	1	1	---	---	---	---	1	---	---	---	---	---
Burglary	1	1	---	---	---	---	1	---	---	---	---	---
Concealed weapons	10	8	---	2	---	---	---	---	---	8	---	---
Defaulting road hand	2	---	1	1	---	---	---	---	---	---	---	---
Disturbing religious worship	7	6	1	---	---	---	---	---	---	6	---	---
Embezzlement	1	---	---	1	---	---	---	---	---	---	---	---
False pretense	2	1	1	---	---	---	---	---	---	1	---	---
Forgery, first degree	3	2	---	---	1	---	2	---	---	---	---	---
Larceny, grand	4	4	---	---	---	---	4	---	---	---	---	---
Larceny, petit	5	5	---	---	---	---	---	---	---	5	---	---
Malicious mischief	2	1	1	---	---	---	---	---	---	1	---	---
Manslaughter, first degree	3	3	---	---	---	---	3	---	---	---	---	---
Murder, first degree	2	1	---	---	1	---	1	---	---	---	---	---
Murder, second degree	5	5	---	---	---	---	5	---	---	---	---	---
Perjury	2	1	---	1	---	---	1	---	---	---	---	---
Presenting gun	1	1	---	---	---	---	---	---	---	1	---	---
Public drunkenness	5	5	---	---	---	---	---	---	---	5	---	---
Rape	1	---	1	---	---	---	---	---	---	---	---	---

CIRCUIT COURT OF RANDOLPH COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Robbery	1	1	---	---	---	---	1	---	---	---	---	---
Shooting into dwelling	8	8	---	---	---	---	---	---	---	8	---	---
Selling mortgaged property	3	1	2	---	---	---	---	---	---	1	---	---
Shooting across public road	1	1	---	---	---	---	---	---	---	1	---	---
Temporary use of property	1	1	---	---	---	---	---	---	---	1	---	---
Trespass after warning	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	7	3	2	2	---	---	---	3	---	---	---	---
Violating court contract	1	---	1	---	---	---	---	---	---	---	---	---
Violating prohibition law	31	20	3	7	1	---	---	---	2	20	---	---
Total	148	108	17	20	3	---	22	3	2	83	---	---

Percentage of convictions in cases disposed of, 73.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF RUSSELL COUNTY.
Third Judicial Circuit.

H. B. Steagall, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	3	3						1		2		
Arson, second degree	1	1					1					
Assault and battery	32	26	1	5				8		18		
Assault and battery with weapon	1	1						1				
Assault, intent to murder	11	4	4	3			3	1				
Assault, intent to ravish	1		1									
Burglary	9	5	3	1			5					
Concealed weapons	7	5		1	1			3		2		
Cruelty to animals	2	2								2		
Disturbing religious worship	3	1		2						1		
Escape	1	1						1				
False pretense	1				1							
Illegal voting	7		1	6								
Larceny, grand	4	3			1		3					
Larceny, petit	7	6	1					4	2	2		
Manslaughter, first degree	4	4					4					
Manslaughter, second degree	4	4						4				
Murder, first degree	1			1								
Murder, second degree	11	8	2	1			8					
Presenting gun	1	1						1				
Public drunkenness	2	2						1		1		
Receiving stolen property	1		1									
Resisting officer	1		1									
Robbery	1	1					1					
Selling mortgaged property	3	1		2						1		

CIRCUIT COURT OF RUSSELL COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Shooting across public road	1	---	---	1	---	---	---	---	---	---	---	---
Shooting on Sunday	1	---	---	1	---	---	---	---	---	---	---	---
Violating prohibition law	17	6	4	7	---	---	---	6	---	1	---	---
Violating Sunday law	1	1	---	---	---	---	---	---	---	1	---	---
Total	139	86	19	31	3	---	25	31	2	31	---	---

Percentage of convictions in cases disposed of, 62.
Predominant crime, Assault and Battery.

CIRCUIT COURT OF ST. CLAIR COUNTY.
Sixteenth Judicial Circuit.

Hon. Jas. A. Embry, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	21	15	---	6	---	---	---	---	---	15	---	---
Adultery and fornication	1	---	---	1	---	---	---	---	---	---	---	---
Assault and battery	11	11	---	---	---	---	---	---	---	11	---	---
Assault and battery with weapon	2	---	1	1	---	---	---	---	---	---	---	---
Concealed weapons	8	3	1	4	---	---	---	---	---	3	---	---
Cruelty to animals	5	1	4	---	---	---	---	---	---	1	---	---
Defaulting road hand	1	---	1	---	---	---	---	---	---	---	---	---
Disturbing religious worship	2	1	1	---	---	---	---	---	---	1	---	---
Disposing of mortgaged property	2	---	---	2	---	---	---	---	---	---	---	---
Escape	1	---	---	1	---	---	---	---	---	---	---	---
Gaming	8	1	---	7	---	---	---	---	---	1	---	---
Giving liquor to minor	3	1	---	2	---	---	---	---	---	1	---	---
Hauling on pike without license	8	2	---	6	---	---	---	---	---	2	---	---
Larceny, petit	9	6	2	1	---	---	---	1	---	5	---	---
Malicious mischief	2	---	---	2	---	---	---	---	---	---	---	---
Manslaughter, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Murder, first degree	3	3	---	---	---	---	3	---	---	---	---	---
Murder, second degree	2	2	---	---	---	---	2	---	---	---	---	---
Practicing medicine without a license	2	---	---	2	---	---	---	---	---	---	---	---
Presenting gun	1	1	---	---	---	---	---	---	---	1	---	---
Seduction	2	---	---	2	---	---	---	---	---	---	---	---
Selling pistol to minor	1	---	1	---	---	---	---	---	---	---	---	---
Shooting on Sunday	1	1	---	---	---	---	---	1	---	---	---	---

CIRCUIT COURT OF ST. CLAIR COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Trespass after warning	3	2	1	---	---	---	---	---	---	2	---	---
Violating game and fish law	6	1	1	4	---	---	---	---	---	1	---	---
Violating prohibition law	68	39	3	23	3	---	---	15	---	27	---	---
Violating stock law	3	---	---	---	3	---	---	---	---	---	---	---
Total	182	93	17	66	6	---	8	17	---	71	---	---

Percentage of convictions in cases disposed of, 51.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF SHELBY COUNTY.
Ninth Judicial Circuit.

Chas. S. Cornelius, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Assault, intent to ravish	1	1	---	---	---	---	1	---	---	---	---	---
Bastardy	1	1	---	---	---	---	---	---	---	1	---	---
Manslaugnter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	2	---	1	---	1	---	---	---	---	---	---	---
Murder, second degree	2	1	---	1	---	---	1	---	---	---	---	---
Overseer, neglect of duty	1	---	1	---	---	---	---	---	---	---	---	---
Seduction	1	1	---	---	---	---	1	---	---	---	---	---
Total	9	5	2	1	1	---	4	---	---	1	---	---

Percentage of convictions in cases disposed of, 55½.
Predominant crimes, Murder in First and Second Degrees.

CIRCUIT COURT OF SUMTER COUNTY.

M. T. Ormond, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	1	---	1	---	---	---	---	---	---	---	---	---
Adultery and fornication	2	2	---	---	---	---	---	1	---	1	---	---
Arson, third degree	1	1	---	---	---	---	---	1	---	---	---	---
Assault	1	1	---	---	---	---	---	1	---	---	---	---
Assault and battery	12	12	---	---	---	---	---	1	---	12	---	---
Assault and battery with weapon	7	5	---	2	---	---	---	1	---	4	---	---
Assault, intent to murder	5	4	1	---	---	---	2	2	---	---	---	---
Attempt at arson	1	1	---	---	---	---	---	---	---	1	---	---
Attempt at burglary	1	1	---	---	---	---	---	1	---	---	---	---
Burglary	11	9	---	2	---	---	1	8	---	---	---	---
Carnal knowledge, girl under 12	1	1	---	---	---	---	1	---	---	---	---	---
Concealed weapons	2	2	---	---	---	---	---	---	---	2	---	---
False pretense	2	2	---	---	---	---	---	1	---	1	---	---
Gaming	3	2	---	1	---	---	---	1	---	1	---	---
Larceny, grand	18	14	---	4	---	---	---	14	---	---	---	---
Larceny, petit	11	10	1	---	---	---	---	2	---	10	---	---
Manslaughter, first degree	2	1	---	1	---	---	1	---	---	---	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Murder, first degree	2	---	1	---	1	---	---	---	---	---	---	---
Murder, second degree	4	3	---	1	---	---	3	---	---	---	---	---
Rape	1	1	---	---	---	---	1	---	---	---	---	---
Removing mortgaged property	7	2	2	3	---	---	---	---	---	2	---	---
Robbery	2	1	---	---	1	---	1	---	---	---	---	---
Violating prohibition law	18	13	---	4	1	---	---	2	---	13	---	---
Total	116	89	6	18	3	---	10	37	---	47	---	---

Percentage of convictions in cases disposed of, 76½.

Predominant crime, Violating Prohibition Law and Grand Larceny.

CIRCUIT COURT OF TALLAPOOSA COUNTY.
Fifth Judicial Circuit.

Hon. W. B. Bowling, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	12	10	---	1	1	---	---	---	---	10	---	---
Adultery and fornication	1	---	---	1	---	---	---	---	---	---	---	---
Affray	7	7	---	---	---	---	---	---	---	7	---	---
Assault and battery	6	5	1	---	---	---	---	---	---	5	---	---
Assault and battery with weapon	25	23	2	---	---	---	---	4	---	23	---	---
Assault, intent to murder	4	4	---	---	---	---	4	---	---	---	---	---
Assault, intent to ravish	2	1	1	---	---	---	1	---	---	---	---	---
Burglary	9	7	1	1	---	---	7	---	---	---	---	---
Concealed weapons	9	8	---	1	---	---	---	---	---	8	---	---
Defamation	1	1	---	---	---	---	---	---	---	1	---	---
Defaulting road hand	6	1	2	3	---	---	---	---	---	1	---	---
Disturbing religious worship	12	11	---	1	---	---	---	---	---	11	---	---
Embezzlement	1	---	---	1	---	---	---	---	---	---	---	---
Escape	1	---	---	1	---	---	---	---	---	---	---	---
False pretense	2	1	---	1	---	---	---	---	---	1	---	---
Forgery, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Gaming	5	4	---	1	---	---	---	---	---	4	---	---
Incest	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	3	1	---	1	1	---	1	---	---	---	---	---
Larceny, petit	2	1	---	1	---	---	---	---	---	1	---	---
Malicious mischief	1	1	---	---	---	---	---	---	1	---	---	---
Manslaughter, first degree	4	4	---	---	---	---	4	---	---	---	---	---
Murder, first degree	4	3	1	---	---	---	3	---	---	---	---	---
Murder, second degree	5	4	1	---	---	---	4	---	---	---	---	---
Perjury	2	---	1	1	---	---	---	---	---	---	---	---
Presenting gun	1	1	---	---	---	---	---	---	---	1	---	---

CIRCUIT COURT OF TALLAPOOSA COUNTY.—*Continued.*

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Public drunkenness	7	5	---	1	1	---	---	---	---	5	---	---
Resisting officer	2	1	---	1	---	---	---	---	---	1	---	---
Robbery	3	1	1	1	---	---	1	---	---	---	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	1	---	---	1	---	---	---	---	---	---	---	---
Unlawfully riding on train	1	1	---	---	---	---	---	---	---	1	---	---
Vagrancy	3	2	1	---	---	---	---	---	---	2	---	---
Violating court contract	9	4	1	3	1	---	---	---	---	4	---	---
Violating game and fish law	1	---	---	1	---	---	---	---	---	---	---	---
Violating prohibition law	85	65	4	12	4	---	---	17	1	65	---	---
Violating revenue law	1	1	---	---	---	---	---	---	---	1	---	---
Violating Sunday law	36	31	---	5	---	---	---	---	---	31	---	---
Total	277	209	17	43	8	---	25	21	2	183	---	---

Percentage of convictions in cases disposed of, 75.
Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF TUSCALOOSA COUNTY.

M. T. Ormond, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Assault and battery	7	7	---	---	---	---	---	2	---	5	---	---
Assault, intent to murder	2	2	---	---	---	---	2	---	---	---	---	---
Burglary	1	1	---	---	---	---	1	---	---	---	---	---
Concealed weapons	4	4	---	---	---	---	---	---	---	4	---	---
Conspiracy	8	8	---	---	---	---	---	7	---	1	---	---
False pretense	1	1	---	---	---	---	---	---	---	1	---	---
Forgery, third degree	1	1	---	---	---	---	---	1	---	---	---	---
Gaming	2	---	---	2	---	---	---	---	---	---	---	---
Larceny, grand	4	4	---	---	---	---	---	4	---	---	---	---
Larceny, petit	3	3	---	---	---	---	---	1	---	2	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Murder, first degree	1	---	1	---	---	---	---	---	---	---	---	---
Murder, second degree	2	2	---	---	---	---	2	---	---	---	---	---
Presenting gun	1	1	---	---	---	---	---	---	---	1	---	---
Public drunkenness	8	8	---	---	---	---	---	---	---	8	---	---
Robbery	6	1	1	4	---	---	1	---	---	---	---	---
Vagrancy	1	1	---	---	---	---	---	---	---	1	---	---
Violating prohibition law	32	19	---	11	2	---	---	6	1	18	---	---
Violating Sunday law	4	3	---	1	---	---	---	---	---	3	---	---
Total	89	67	2	18	2	---	7	21	1	44	---	---

Percentage of convictions in cases disposed of, 75.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF WALKER COUNTY.

Wm. B. Bankhead, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	2			2								
Assault	2	2						1		1		
Assault and battery	7	5		1	1					5		
Assault and battery with weapon	1	1								1		
Assault, intent to murder	1				1							
Attempt to commit a felony	1			1								
Bigamy	1			1								
Burglary	3			2	1							
Burglary and grand larceny	4	1		2	1		1					
Concealed weapons	7		1	5	1							
Disturbing religious worship	1	1								1		
Embezzlement	1		1									
Gaming	3			3								
Illegal voting	2			2								
Larceny, grand	6	2	1	3			2					
Larceny, petit	1	1								1		
Miscegenation	2	2					2					
Murder, first degree	4		2	2								
Murder, second degree	1		1									
Public drunkenness	1			1								
Rape	2	1		1			1					
Seduction	2			2								
Shooting into dwelling	1			1								
Temporary use of property	1	1								1		
Trespass after warning	1	1								1		
Vagrancy	1			1								
Violating speed law	1	1								1		
Violating prohibition law	43	4	4	34	1				1	3		
Violating Sunday law	1				1							
Total	104	23	10	64	7		6	1	1	15		

Percentage of convictions in cases disposed of, 22.

Predominant crime, Violating Prohibition Law.

CIRCUIT COURT OF WASHINGTON COUNTY.

Jno. McDuffee, Solicitor.
Fall, 1911; Spring, 1912; Two Terms.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	1	1	---	---	---	---	---	---	---	1	---	---
Assault and battery	3	2	1	---	---	---	---	1	---	1	---	---
Assault and battery with weapon	1	---	1	---	---	---	---	---	---	---	---	---
Assault, intent to murder	1	---	---	---	1	---	---	---	---	---	---	---
Assault, intent to ravish	1	---	1	---	---	---	---	---	---	---	---	---
Forfeiture of bond	1	1	---	---	---	---	---	---	---	1	---	---
Larceny, grand	4	3	---	---	1	---	3	---	---	---	---	---
Larceny, petit	4	4	---	---	---	---	---	1	---	3	---	---
Murder, first degree	2	2	---	---	---	---	2	---	---	---	---	---
Murder, second degree	2	2	---	---	---	---	2	---	---	---	---	---
Selling diseased meat	1	1	---	---	---	---	---	---	---	1	---	---
Violating prohibition law	1	1	---	---	---	---	---	1	---	---	---	---
Total	22	17	3	---	2	---	7	3	---	7	---	---

Percentage of convictions in cases disposed of, 77.
Predominant crime, Grand and Petit Larceny.

CIRCUIT COURT OF WINSTON COUNTY.

Wm. B. Bankhead, Solicitor.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abusive language	15	8	1	6	---	---	---	---	---	8	---	---
Adultery and fornication	1	---	---	1	---	---	---	---	---	---	---	---
Assault and battery	12	6	---	6	---	---	---	---	---	6	---	---
Assault, intent to murder	2	---	1	1	---	---	---	---	---	---	---	---
Bribery	1	---	1	---	---	---	---	---	---	---	---	---
Concealed weapons	4	2	1	1	---	---	---	---	---	2	---	---
Defacing public buildings	1	1	---	---	---	---	---	---	---	1	---	---
Disturbing religious worship	1	---	---	1	---	---	---	---	---	---	---	---
Failing to repair public road	1	---	---	1	---	---	---	---	---	---	---	---
Forgery, first degree	1	---	---	1	---	---	---	---	---	---	---	---
Gaming	4	---	2	2	---	---	---	---	---	---	---	---
Giving liquor to minor	4	2	---	2	---	---	---	---	---	2	---	---
Injuring property	1	---	---	1	---	---	---	---	---	---	---	---
Larceny, grand	5	1	1	3	---	---	1	---	---	---	---	---
Larceny, petit	4	1	3	---	---	---	---	---	---	1	---	---
Malicious mischief	1	---	1	---	---	---	---	---	---	---	---	---
Manslaughter, first degree	1	1	---	---	---	---	1	---	---	---	---	---
Manslaughter, second degree	1	1	---	---	---	---	---	1	---	---	---	---
Murder, second degree	2	2	---	---	---	---	2	---	---	---	---	---
Public drunkenness	7	2	---	5	---	---	---	---	---	2	---	---
Rape	1	1	---	---	---	---	1	---	---	---	---	---
Seduction	1	---	---	1	---	---	---	---	---	---	---	---
Selling mortgaged property	1	---	1	---	---	---	---	---	---	---	---	---
Shooting into passenger train	1	1	---	---	---	---	1	---	---	---	---	---
Unlawful injury to animal	1	1	---	---	---	---	---	---	---	1	---	---
Violating prohibition law	14	2	---	10	2	---	---	---	---	2	---	---
Total	89	33	12	42	2	---	6	1	---	25	---	---

Percentage of convictions in cases disposed of, 38.

Predominant crime, Violating Prohibition Law.

GENERAL STATEMENT OF ALL CRIMINAL CASES DISPOSED OF IN ALABAMA DURING THE BIENNIAL PERIOD BEGINNING OCTOBER 1ST, 1910, AND ENDING SEPTEMBER 30TH, 1912.

CHARACTER OF OFFENSE	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. Sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Abandonment	10	2	4	4						2		
Abusive letter	4	2	2					1		1		
Abortion	3		1	2								
Abusive language	1,245	652	132	405	56			37	14	601		
Adultery and fornication	232	78	38	102	14			25	2	51		
Affray	76	37	13	19	7			5	6	28		
Allowing minor to play pool	15	5	2	6	2					5		
Aiding escape	15	8	4	3				1		7		
Abduction	3	1	1	1			1					
Arson, first degree	23	6	11	6			6					
Arson, second degree	21	10	7	3	1		8	2				
Arson, third degree	10	6	1	2	1			3		3		
Assault	81	44	16	19	2			7		37		
Assault and battery	1,519	799	204	426	90			158	25	623		
Assault and battery with weapon	1,213	758	130	271	54			138	29	598		

Assault, intent to murder	455	216	77	124	38		133	71	3	8	1	
Assault, intent to ravish	36	19	10	7			15	3		2		
Attempt at Bribery	1	1					1					
Assault, intent to rob	4	4					3	1				
Attempt at arson	1	1						1				
Attempt at burglary	3	2	1							2		
Attempt to commit a felony	7	6		1						6		
Attempt at larceny	4	1		3						1		
Attempt at poison	3	1		2				1				
Betting on election	1	1								1		
Betting at cards	11	10		1				2		8		
Bastardy	26	11	2	10	3					11		
Bartering away office	1		1									
Buying seed cotton	4	1	1	2						1		
Bigamy	27	10	4	10	3		7	3				
Bestiality	4	2	1	1			2					
Bringing stolen property into state	3	3					3					
Bribery	3		1	1	1							
Burglary	479	354	50	60	15		254	93			1	
Burglary and grand larceny	209	133	32	38	6		77	53	1	4		
Burglary, grand larceny and receiving stolen goods	10	9	1				8		1			
Burglars' tools in possession	3	2	1					2				
Carnal knowledge, girl over 12	6	6						2		4		
Carnal knowledge, girl under 12	12	2	3	7			2					
Boycotting	9	7		2						7		
Changing name unlawfully	9	2	3	3	1					2		

GENERAL STATEMENT—Continued.

CHARACTER OF OFFENSE	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. Sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Cock fighting	3	----	1	2	----	----	----	----	----	----	----	----
Concealed weapons	1,502	831	185	422	64	----	----	209	15	617	----	----
Concealed stolen property	4	1	----	1	2	----	----	1	----	----	----	----
Conspiracy	13	8	----	5	----	----	----	7	----	1	----	----
Contempt	5	4	1	----	----	----	----	----	----	4	----	----
Changing hog mark	1	----	----	1	----	----	----	----	----	----	----	----
Compounding a felony	2	1	1	----	----	----	----	----	----	1	----	----
Cutting timber from land of another	2	----	----	2	----	----	----	----	----	----	----	----
Cruelty to animals	67	26	16	20	5	----	----	2	----	24	----	----
Decoying child	16	1	9	5	1	----	----	1	----	----	----	----
Defacing public buildings	45	17	4	19	5	----	----	4	3	10	----	----
Defamation	45	10	5	23	7	----	----	----	----	9	----	----
Destroying fence	9	----	5	2	2	----	----	----	----	----	----	----
Disorderly conduct	1	----	----	1	----	----	----	----	----	----	----	----
Disturbing religious worship	293	155	40	85	13	----	----	5	----	150	----	----
Disposing of mortgaged property	49	17	13	17	2	----	5	----	----	12	----	----

Disturbing females	31	24	1	6						24		
Displaying nude pictures	2		2									
Disturbing public assembly	8	5		3						5		
Disturbing school	5	4	1							4		
Embezzlement	153	46	18	70	19		11	21	2	13		
Extortion	6		1	5								
Enticing minor	4		1	3								
Escape	41	28		10	3			24	1	4		
Enticing labor	15	4	5	6						4		
Failing to drive to the right	2	1								1		
Failing to repair public road	226	101	56	69				11		92		
False pretense	238	85	30	95	28		10	20	6	52		
Fugitive from justice	1			1								
False impersonation	3	2		1						2		
False packing of cotton	1	1								1		
Forgery, first degree	89	36	16	25	12		36					
Forgery, second degree	31	18	3	8	2		11	7				
Forgery, third degree	5	3	1	1				3				
Gaming	2,125	747	410	844	124			120	62	565		
Gaming on Sunday	363	169	26	145	23			27	19	123		
Giving away transfer	13	4	2	3	4				2	2		
Giving liquor to minor	21	8	3	9	1					8		
Hauling on pike without license	8	2		6						2		
Horse racing	2			2								
Indecent exposure of person	10	9	1					1		8		
Issuing worthless checks	2		1	1								
Impersonating officer	1			1								

GENERAL STATEMENT—Continued.

CHARACTER OF OFFENSE	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. Sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Injuring telegraph wires	3	1	1	1						1		
Injuring public road	2	2								2		
Injuring animals	1		1									
Incest	13	3	4	6			3					
Illegal voting	13		1	12								
Justice of peace; neglect of duty	2	1		1						1		
Kidnapping	2	2					1		1			
Keeping gaming table	69	3	11	52	3		3					
Killing hogs unlawfully	8	1	2	5						1		
Keeping house of prostitution	2			1	1							
Keeping sheep-killing dog	3		3									
Larceny, grand	900	568	118	169	45		360	206				
Larceny, petit	955	614	114	190	37			221	124	342		
Larceny, grand, and receiving stolen goods	13	3	1	8	1		1		2	2		
Lottery	10	4	1	4	1					4		
Larceny from the person	5	2	1	2			2					

Mayhem	1		1									
Malicious mischief	72	28	17	19	8			4	1	23		
Malicious injury to property	7	4	2	1						4		
Manslaughter, first degree	122	114	6	2			114					
Manslaughter, second degree	65	60	2	3				48	7	7		
Miscegenation	19	7	6	3	3		7					
Murder, first degree	280	121	80	49	30	29	92					
Murder, second degree	234	177	32	23	2		177					
Obscene Literature	2	2								2		
Obstructing public road	28	7	11	9	1					7		
Obstructing railroad	6	4	1	1			4					
Obtaining board by fraud	4		1		3							
Operating slot machine	34	10	19	5						10		
Overseer, neglect of duty	13	2	7	4						2		
Perjury	52	12	14	22	4		10	2				
Playing cards, public place	6	1		3	2					1		
Practing dentistry without a license	16	7		9						7		
Practicing medicine without a license	30	4	1	16	9					4		
Presenting gun	179	59	34	69	17			13	1	45		
Public drunkenness	1,012	677	63	256	16			27	3	650		
Removing landmark	1		1									
Rape	35	17	5	9	4	1	14	2				
Receiving stolen property	84	17	20	36	11		2	6	1	8		
Rescuing prisoner	1		1									
Removing mortgaged property	47	17	11	16	3			2		15		
Refusing to assist sheriff	4			4								
Resisting officer	48	17	5	21	5			5		12		

GENERAL STATEMENT—Continued.

CHARACTER OF OFFENSE	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. Sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Robbery	91	29	17	29	16	-----	29	-----	-----	-----	-----	----
Resisting process	1	-----	1	-----	-----	-----	-----	-----	-----	-----	-----	----
Seduction	33	3	4	26	-----	-----	3	-----	-----	-----	-----	----
Selling diseased meat	14	5	3	6	-----	-----	-----	-----	-----	5	-----	----
Selling stolen property	2	-----	-----	2	-----	-----	-----	-----	-----	-----	-----	----
Selling pistol to minor	1	-----	1	-----	-----	-----	-----	-----	-----	-----	-----	----
Selling cocaine	18	4	3	10	1	-----	-----	1	-----	3	-----	----
Selling liquor to minor	6	1	2	2	1	-----	-----	-----	-----	1	-----	----
Shooting into dwelling	27	19	1	7	-----	-----	-----	1	-----	18	-----	----
Selling cigarettes to minor	5	2	3	-----	-----	-----	-----	-----	-----	2	-----	----
Sending abusive letter	3	3	-----	-----	-----	-----	-----	1	-----	2	-----	----
Selling indecent paper	1	-----	-----	1	-----	-----	-----	-----	-----	-----	-----	----
Selling choking mules	7	2	3	2	-----	-----	-----	-----	-----	2	-----	----
Selling mortgaged property	111	39	20	43	9	-----	2	8	-----	31	-----	----
Selling rent cotton	1	1	-----	-----	-----	-----	-----	1	-----	-----	-----	----
Shooting across public road	73	35	11	24	3	-----	-----	1	-----	34	-----	----

Shooting into passenger train	1	1					1					
Shooting on Sunday	3	1	1	1						1		
Sending challenge	1			1								
Sodomy	5	3	1	1			2	1				
Severing and taking property	4	3		1						3		
Temporary use of animal	14	7	5	2						7		
Temporary use of property	20	12	3	4	1			1		11		
Tampering with railroad switch	1		1									
Throwing missile at train	3	2	1				1	1				
Trespass after warning	223	46	34	124	19			3		43		
Trespassing on public property	1	1						1				
Unlawful injury to animal	34	15	9	9	1			1		14		
Unlawfully riding on train	62	49	6	7				28	4	17		
Unlawfully killing dog	8	3	2	3						3		
Unlawful assembly	1			1								
Using firearms public place	3	1		2					1			
Vagrancy	610	170	99	300	41			72	11	87		
Violating automobile law	20	6	2	9	3					6		
Violating speed law	11	5	1	5						5		
Violating court contract	31	16	6	8	1			4		12		
Violating election law	2	1	1							1		
Violating game and fish law	144	69	16	50	9			2		67		
Violating prohibition law	5,976	1,866	518	2,892	700			608	42	1,429		
Violating revenue law	1,663	37	161	1,234	231			8	1	28		
Violating Sunday law	369	200	39	109	21			6	6	188		
Violating stock law	28	10	7	8	3					10		
Violating written contract	61	20	3	30	8			6		15		

GENERAL STATEMENT—Continued.

CHARACTER OF OFFENSE.	No. cases disposed of	Convictions	Acquittals	Nolle prosequies	Abated or withdrawn	No. sentences to				Fines paid or secured	Insane Asylum	Pardoned
						Death	Penitentiary	Hard Labor	Jail			
Violating insurance law	14	----	----	5	9	----	----	----	----	----	----	----
Violating quarantine law	50	26	5	18	1	----	----	----	----	26	----	----
Violating oyster law	9	1	2	6	----	----	----	----	----	1	----	----
Violating mining law	13	8	----	3	2	----	----	----	----	8	----	----
Violating Sec. 6938 of Code	2	----	----	----	2	----	----	----	----	----	----	----
Violating Sec. 6314 of Code	1	----	----	1	----	----	----	----	----	----	----	----
Total	25,449	10,870	3,202	9,477	1,900	30	1,421	2,364	394	6,981	2	----

Percentage of convictions in cases disposed of, 42 1/3.

Predominant crime, Violation of the Prohibition Law.

Sixteen sentenced to Reform School.

2 sentenced to House of Refuge.

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